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CURRENT TOPICS

Sir Stafford Cripps

No conventional recital of academic honours and rapid progress in the legal and political career of the late Sir RICHARD STAFFORD CRIPPS, Q.C., would be appropriate in paying a last tribute to one who was more than a great lawyer and politician, who strove literally with every fibre for the lofty cause of social justice as he saw it and, in his last years, for the salvation of the social and economic system from appalling dangers. What Mr. CHURCHILL described as his " powerful, lucid intelligence " was placed unsparingly in the service of justice between individuals in the courts, and was placed as generously in the general service of the community as a whole. All who have known the late Sir Stafford will agree wholeheartedly with the tribute of Mr. ATTLEE : " He was no cold intellectual ; on the contrary, he was a very warm-hearted, generous, lovable man with great personal charm." The country has indeed, as Mr. Attlee said, lost a great man.

Rating of Site Values

AN astonishing wealth of information is contained in the Report of the Departmental Committee of Enquiry on the Rating of Site Values under the chairmanship of Mr. ERSKINE SIMES, Q.C. (H.M. Stationery Office, 5s.). The committee were appointed on the 28th November, 1947, " to consider and report on the practicability and desirability of meeting part of local expenditure by an additional rate on site values, having regard to the provisions of the Town and Country Planning Acts and other factors." A lengthy historical summary commences with the statute of 43 Eliz. c. 2, and examines numerous statutes and reports of committees and Royal Commissions. Chapters follow on the present background, the basis of a site value rate, problems of valuation, the product of a site value rate and the effects of a site value rate on the incidence of rating and of rates between owners and occupiers. On the main issue, whether the imposition of a site value rate is practicable or desirable, the great preponderance of evidence was against the introduction of such a rate. The committee reported that they were opposed to the introduction of a rate to be levied on the Central Land Board on the difference between the restricted and the unrestricted value of land. The majority of the committee held that it would, in the long run, make little or no difference whether the rate were levied on the owner or occupier—unless there were legislative interference with the sanctity of existing contracts, which they were unwilling to countenance. Their conclusion was that they did not deny the possibility of rating site values, but were impressed with the " administrative difficulties, the prospect of litigation which would inevitably arise, the undesirability of diverting much-needed manpower for the purpose and the relatively small revenue likely to be obtained." The majority reported that both in England and Wales and in Scotland the meeting of any part of local expenditure by an additional rate on site values, having regard to the Town and Country Planning Acts and other relevant factors, would be neither practicable nor desirable.

CONTENTS

PAGE

CURRENT TOPICS:
Sir Stafford Cripps .. 267
Rating of Site Values .. 267
Counsel's Fees .. 268
Caravans as Permanent Dwellings .. 268
Conditional Binding Over of Witnesses .. 268
Longevity among Solicitors .. 268
Liverpool Law Clerks' Society .. 268

ACCIDENTS AT PEDESTRIAN CROSSINGS 269

COSTS:
Giles v. *Randall* Reconsidered .. 271

PROCEDURE—XVII:
Purpose and Mechanics of Service .. 273

A CONVEYANCER'S DIARY:
Essential Qualities of an Easement .. 274

LANDLORD AND TENANT NOTEBOOK:
Control: The Importance of a Kitchen .. 275

HERE AND THERE .. 276

REVIEWS .. 278

OBITUARY .. 279

NOTES OF CASES:
Feyereisel *v.* Turnidge *(Rent Restriction: Dwelling-house Let Together with Land: Business of Letting Camping Sites: Whether Protected Tenancy)* .. 280
Inland Revenue Commissioners *v.* Gordon *(Income Tax: Overdrafts incurred in U.K. Transferred and Discharged Abroad)* .. 280
Morriss *v.* Marsden *(Tort: Liability of Lunatic)* .. 281
R. *v.* Owen *(Evidence Given after Retirement of Jury: Conviction Quashed)* .. 281
Royal College of Surgeons of England *v.* National Provincial Bank, Ltd., and Others *(Will: Gift Over in case of Nationalisation of Hospital: Royal College of Surgeons: Whether a Charity)* .. 280

PRACTICE NOTES:
(Criminal Law: Reasonable Doubt) .. 281
(Legal Aid: Costs: Discontinuance of Proceedings in Divisional Court) .. 281

SURVEY OF THE WEEK:
House of Lords .. 282
House of Commons .. 282
Statutory Instruments .. 282

POINTS IN PRACTICE .. 283

NOTES AND NEWS .. 284

SOCIETIES .. 284

Counsel's Fees

AMONG matters of interest to solicitors in the Annual Statement of the General Council of the Bar, presented at the Annual General Meeting of the Bar on 21st April, is the product of a review and consolidation of the Council's past rulings on counsel's fees. This has been completed, and was approved by the Council on 19th November, 1951. Particular attention is drawn to certain rules. The first deals with the qualified prohibition that counsel's clerk may not ask for a brief fee to be increased after acceptance of the brief with full knowledge of the contents and other relevant matters, unless circumstances arise which substantially increase counsel's burden and responsibility. In the latter case the solicitor must be informed at the earliest possible moment of the increase required. If the request is made at a time so close to the hearing that the solicitor is prejudiced in exercising his option to brief other counsel, there is a breach of professional etiquette by counsel on whose behalf the request is made. Brief fees, it is emphasised, are fixed by arrangement between the solicitor or his clerk, and counsel's clerk, but in cases of special difficulty a Q.C. may discuss a fee personally with instructing solicitor. As to the two-thirds rule, it is provided that junior counsel is entitled to from three-fifths to two-thirds of the fee payable to his leader, but where the leader's fee exceeds 150 guineas, the amount by which the junior's fee exceeds 100 guineas may be a matter of arrangement. The two-thirds rule, as stated above, applies to criminal cases and refresher fees.

Caravans as Permanent Dwellings

COMMENTING upon the increasing use of caravans as permanent dwellings, *The Times* of 18th April says that county planning authorities are becoming very disturbed because of the impracticability of enforcing the provisions of the Town and Country Planning Act, 1947, until there are more houses available for the caravan-dwellers to be moved into. It is stated that in Surrey conditions on many of the sites are deplorable and some people advocate control of the manufacture and sale of caravans as the only effective means of stopping the flood of caravans on to these sites. People who after years of searching find it impossible to obtain a house of their own are easily persuaded to buy a caravan (often on hire purchase) and to set it up in a field alongside others at a weekly rent of about fifteen shillings. The restrictions on house building and the financial problems are thus evaded at one blow, and the authorities are more or less powerless to interfere. *The Times* states that in Middlesex hardly any new sites can come into use as all the open spaces are already filled, but Hertfordshire, which is one step further from the metropolis, is now beginning to receive large numbers of caravans. Every county has this problem and it is said that the position is even worse in Lancashire and in the area around Birmingham than it is in Greater London. Many of the counties have completed surveys of the position and are of the opinion that the question will have to be dealt with by the central Government rather than by local authorities. It is highly probable that the Kent county authorities will recommend that five publicly owned sites be set up, whilst Surrey County Council has drawn up a standard set of conditions to be applied by district councils to all future permissions for use of land as permanent or semi-permanent caravan sites. It has also urged all district councils to acquire and control sites for the regrouping of caravans improperly sited and to take all possible steps to bring existing sites up to the standard conditions. No new sites will be approved except those needed for regrouping.

Conditional Binding Over of Witnesses

IN the Court of Criminal Appeal on 22nd April the LORD CHIEF JUSTICE said that the court desired to call the attention of magistrates, and more particularly of their clerks, to the desirability of exercising more frequently their powers of binding over witnesses conditionally under the provisions of s. 13 of the Criminal Justice Act, 1925. Attention was directed to rr. 8 and 9 of the Indictable Offences Rules, 1926. It was particularly desirable, his lordship said, that medical men should only be conditionally bound over if their evidence was unchallenged and really only formal, as was so often the case in charges of carnal knowledge, or of wounding where there was no dispute as to the nature and extent of the injuries. The court must inform the accused of his right to require the attendance of a witness conditionally bound over and of the steps to be taken for securing his attendance.

Longevity among Solicitors

WE are indebted to Mr. MARTEL PAGE, senior partner in Messrs. Hiscott, Troughton & Page, for some interesting information on the subject of longevity among solicitors. THOMAS HENRY HISCOTT, the late senior partner, died on 29th January, 1952, in his ninety-eighth year. In 1947 Henry George Troughton, another partner, died in his ninety-fourth year, and another partner, Mr. George Charles Grubbe, died in 1929 in his eightieth year. Mr. Grubbe was born in 1850, and both Mr. Hiscott and Mr. Troughton in 1854, and all three became friends in their very early days. Mr. Hiscott, after some period as a reporter in the House of Lords, was admitted in 1885, and commenced practice on his own account at New Inn, where he remained until about 1900, when the Inn was demolished to make way for the construction of Kingsway, and he then moved to No. 11 Stone Buildings, the present address of the firm. Mr. Troughton became associated with the old firm of Remnant & Penley, at 52 Lincoln's Inn Fields, who were then described as Attorneys, Solicitors and Conveyancers. On the retirement of Mr. Remnant in 1879 Mr. Grubbe joined Mr. Penley in partnership (believed to be the brother of Aaron Penley, the Victorian water-colour artist, at one time tutor to Queen Victoria and her family), and the firm became Penley & Grubbe. At or about the same time Mr. Troughton was articled to Mr. Penley, and was admitted in 1887, and on Mr. Penley retiring joined Mr. Grubbe in partnership to become the firm of Grubbe & Troughton, and they continued the practice at 52 Lincoln's Inn Fields and later amalgamated with Mr. Hiscott to become Hiscott, Troughton & Grubbe. Following Mr. Grubbe's death in 1929 the firm took its present name. Mr. Hiscott and Mr. Troughton both remained in active practice in the firm up to the age of eighty-five, and retired together at the commencement of the late war after being in practice for fifty-five years and having been friends for nearly seventy years. It is believed that Mr. Hiscott was, up to a few years ago, the oldest member of The Law Society.

Liverpool Law Clerks' Society

AT the Annual General Meeting of the Liverpool Law Clerks' Society on 29th April, 1952, it was reported that the society now consists of 214 ordinary members and 35 life members. A scheme for pensions, submitted by an assurance company, was carefully considered, but whilst the committee wholeheartedly supported the principle of pensions for clerks, they did not feel justified in recommending any particular company's scheme. The committee reminded members that a benevolent fund was available to aid necessitous members and dependants.

ACCIDENTS AT PEDESTRIAN CROSSINGS

THE establishment of what have become commonly known as pedestrian crossings, under powers first conferred by the Road Traffic Act, 1934, and the regulations made thereunder, has had a considerable effect on that aspect of the law of negligence that is concerned with street accidents. The provisions of these various regulations have conferred upon the pedestrian rights additional to those hitherto enjoyed by him at common law, and have laid corresponding duties on the driver of a road vehicle. The common-law duty of the latter is to drive his vehicle in such a way as not to cause injury to other road users by doing something that an ordinary prudent driver would not do or by failing to take such precautions as a reasonably prudent driver would take, i.e., the driver will be liable for negligence. Under the provisions of the pedestrian crossing regulations, however, such a driver may be liable in damages to a pedestrian because the driver has failed to do something that the regulation requires him to do.

In these cases the plaintiff, in addition to a right of action for negligence, may have a right of action for a breach of statutory duty.

This position has had a definite effect on the law of contributory negligence, and no doubt the frequency of the cases concerning accidents at pedestrian crossings where contributory negligence was an important factor played a part in the passing of the Law Reform (Contributory Negligence) Act, 1945, which applies the Admiralty rule of the apportionment of damages between persons both guilty of negligence to accidents on land.

The first reported case of an action in respect of an accident happening on a pedestrian crossing is *Bailey* v. *Geddes* (1937), 53 T.L.R. 975, which was decided on the construction of regs. 3 and 4 of the Pedestrian Crossing Places (Traffic) Provisional Regulations, 1935, which provided (*inter alia*): " (3) The driver of every vehicle approaching a crossing shall unless he can see that there is no foot passenger thereon proceed at such a speed as to be able if necessary to stop before reaching such crossing. (4) The driver of every vehicle at or approaching a crossing where traffic is not for the time being controlled by a police constable or by light signals shall allow free and uninterrupted passage to any foot passenger who is on the carriageway at such crossing and every such foot passenger shall have precedence over all vehicular traffic at such crossing."

The facts were that the plaintiff, while using an uncontrolled crossing, had emerged from behind some traffic and had been hit by the defendant's motor car. The plaintiff had crossed over from the defendant's off side and had nearly reached the opposite pavement before he was struck.

The defendant pleaded contributory negligence by the plaintiff, but the Court of Appeal held that such a defence was not available because reg. 3 required the defendant to approach the crossing at such a speed as to be able if necessary to stop before reaching the crossing, and reg. 4 required him to give precedence to the plaintiff who was on the crossing, and if these regulations, which were positive in their terms, had been observed, there would have been no car upon the crossing at all which could have injured the plaintiff.

The wording of the regulations apparently prohibited a motorist from entering on to a crossing unless he could see that there was no one on the crossing. If his view was obscured he would still be liable for any injuries caused by a collision between his car and a pedestrian on the crossing.

The effect of the decision in *Bailey* v. *Geddes* was considered by the Court of Appeal in *Chisholm* v. *London Passenger Transport Board* (1938), 54 T,L.R. 284, where the plaintiff, crossing the street at a road intersection controlled by traffic lights, was injured by an omnibus. It was found as a fact that he had stepped on to the crossing some twenty feet to thirty feet in front of the omnibus and before the omnibus reached the pedestrian crossing used by the plaintiff. The omnibus, which was travelling at a reasonable speed of twelve to fifteen miles per hour, pulled up in its own length.

The case turned upon the wording of the same regulations, of 1935 as were in point in *Bailey* v. *Geddes*.

The court reversed a decision of Hilbery, J., in favour of the plaintiff and held (du Parcq, L.J., dissenting) that the decision in *Bailey* v. *Geddes* only refers to a case where the pedestrian is on the crossing when the driver has a chance of avoiding him by stopping, and not to the case of a pedestrian stepping from the footpath on to the crossing. In the latter case the driver of the vehicle can plead the contributory negligence of the pedestrian. The court upheld the decision of Wrottesley, J., in *Knight* v. *Sampson* (1938), 54 T.L.R. 974, where the facts, as stated by the learned judge, were that the plaintiff was standing on the edge of the pavement, not presenting the appearance of a man about to cross the road at all. He stepped off the kerb in such a way as to meet the defendant's car on its near side and was struck by the near side front mudguard about twelve inches behind the front of that mudguard.

Wrottesley, J., held that the defendant had no opportunity of seeing the plaintiff upon the crossing at all. He said: " I think that it was very likely, although of course it is really impossible to say within an inch or two, that after the car had reached the edge of the crossing Captain Knight suddenly stepped off the pavement on to the road."

As a result the real cause of the accident was the action of the plaintiff himself. The defendant had had no chance of avoiding colliding with him.

In affirming *Knight* v. *Sampson*, the Court of Appeal expressed views on the effect of the pedestrian crossing regulations on the principles of the law of negligence and breach of statutory duty. Scott, L.J., said that the interpretation of the decision in *Bailey* v. *Geddes* as excluding the defence of contributory negligence in all cases of injury on pedestrian crossings would be disastrous to good management of traffic under the then existing regulations, and MacKinnon, L.J., after pointing out that the plaintiff in *Bailey* v. *Geddes* must have walked for almost fifty feet upon the crossing before being knocked down and must have started on it when the car was some way down the road said that to apply that interpretation to the facts of every case would mean that a driver approaching any crossing to be safe from possible liability must slow down more and more, so that if, when he is one foot from the crossing, someone steps into the road ahead of him he can pull up his car in less than one foot, a view that he described as " an absurd and perverted " application of *Bailey* v. *Geddes*.

The view taken by Hilbery, J., of the effect of *Bailey* v. *Geddes* received more favourable treatment from du Parcq, L.J., who was of the opinion on the facts that the omnibus driver had not kept a proper look-out. He said that acceptance of the arguments of the defendants would mean that for the future a foot passenger would have no reason to think himself any safer on an uncontrolled crossing than on any other part of the highway, and what was meant to be a safety zone might become a dangerous trap.

The position of a pedestrian stepping on to the crossing, not from the pavement, but from a refuge in the middle of the

crossing, was considered by the Court of Appeal in *Wilkinson* v. *Chetham-Strode* (1940), 56 T.L.R. 767, where the plaintiff crossed over from the west side of the road at a pedestrian crossing controlled by traffic lights. When the plaintiff first stepped into the road the lights were against the defendant and she was thus under an obligation to give the plaintiff free and uninterrupted passage. The lights changed before the plaintiff reached the refuge and the defendant moved forward when the plaintiff was on, not the paved part of the crossing, but the refuge.

The defendant, assuming that the plaintiff would wait for her to pass, continued over the crossing, when the plaintiff stepped off the island on to the crossing and was knocked down. The question for decision was whether the refuge was to be regarded as part of the crossing, in which case the defendant had contravened reg. 5 of the 1935 regulations and was liable under the principle in *Bailey* v. *Geddes* in spite of the plaintiff's contributory negligence, or whether it was a separate entity from the crossing.

The Court of Appeal, affirming the decision of Asquith, J., held the latter view and that a person stepping abruptly from the refuge was in the same position as a person stepping abruptly from the pavement on to the crossing, as in *Knight* v. *Sampson* and *Chisholm* v. *London Transport Passenger Board*, and could be guilty of contributory negligence.

This decision has now received statutory effect by reg. 2 of the Pedestrian Crossings (General) Regulations, 1951, which provides that the word "carriageway" does not include that part of any crossing which consists of a street refuge or central reservation.

It is to foot passengers on the "carriageway" within the limits of an uncontrolled crossing that the duty imposed by these new regulations is owed.

The difficulties of interpreting regulations relating to pedestrian crossings in certain physical conditions are illustrated in *Sparks* v. *Edward Ash, Ltd.* (1943), 59 T.L.R. 92, where the plaintiff was injured by the defendant's vehicle on an uncontrolled crossing during the war-time blackout. Scott, L.J., pointed out that the language of the 1935 regulations assumed conditions of complete visibility and contained no provision to assist in their application to conditions of fog, where visibility was often restricted to a few yards or even feet. It was contended on behalf of the defendant that the regulations, which were a form of delegated legislation, had become wholly invalid on the ground that they were unreasonable in view of the war-time restrictions on lighting. Unfortunately for this argument, the regulations had been re-issued and laid before Parliament after the lighting restrictions had been imposed, and the court held that it must be assumed that Parliament did not intend that the obligations imposed by the regulations should be affected by the lighting restrictions, and that the Minister was satisfied that the war-time permitted lighting was enough to enable a driver to see that he was approaching a crossing. If he was unable to see whether a pedestrian was on it, it would seem to follow that he must approach at a speed which would enable him to stop before he reached it. Practically it would probably happen that the driver of a vehicle would discern the presence of a person in the roadway before he was aware of the existence of a pedestrian crossing, for the older kinds of crossing, in hours of darkness and fog, were always difficult, and in blackout conditions almost impossible, to discern. In that case the plaintiff was on the crossing and the defendant admitted that he knew of the crossing.

The court held that it was unnecessary to consider what the position would have been if the defendant had not known of the crossing and it had been found that he could not see it.

It will be seen, therefore, that the law with regard to these crossings in the hours of darkness is still not clear.

The principle in *Bailey* v. *Geddes* was applied by the Court of Appeal (Greene, M.R., dissenting) in *Upson* v. *London Passenger Transport Board* (1947), 63 T.L.R. 452, to circumstances involving a considerable degree of negligence on the part of the pedestrian plaintiff, as was acknowledged by all the members of the court. The relevant regulations were reg. 3 of the Pedestrian Crossing Places (Traffic) Regulations, 1941 (which is a re-enactment of reg. 3 of the 1935 regulations), and reg. 5 of such regulations which provides that drivers at or approaching a controlled crossing shall "allow free and uninterrupted passage to every foot passenger who has started to go over the crossing before the driver receives a signal that he may proceed over the crossing."

The facts were that an omnibus of the defendants was approaching a light-controlled crossing the view of which was obscured by a stationary taxicab near to the crossing. The traffic lights were in favour of the driver of the omnibus. The plaintiff hurried across the road against the traffic lights, her view of the road being masked by the width of the taxicab, the driver's view also being masked by the same width of about five feet. The plaintiff had negotiated the greater part of the distance between the pavement and a traffic island in the middle of the crossing when she was knocked down by the omnibus. The bus, which was travelling at about fifteen miles per hour, pulled up with its front wheels on the crossing. It was contended on behalf of the defendants that *Chisholm* v. *London Passenger Transport Board* applied as the plaintiff had stepped into the road at the last moment and against the traffic lights, and consequently the omnibus had ceased to be "an approaching vehicle" within the meaning of the regulation and that, if the taxicab had not been there, the driver could have said that there was no one on the crossing at the material moment to whom he should give precedence. This argument found favour with the Master of the Rolls, but Cohen, L.J., and Asquith, L.J., held that the presence of the taxicab, which prevented the omnibus driver having an uninterrupted view of the whole of the crossing, made it impossible for him to see that there was no foot passenger thereon; it was therefore his duty, under the regulation, to proceed at such a speed as to be able, if necessary, to stop before reaching the crossing, and having failed to do this he had committed a breach of the regulation, which was a contributory cause of the accident.

Cohen, L.J., expressed the opinion that the answer to the defendant's argument might be that if the taxicab had not been there the plaintiff might not have misjudged her distance from the bus.

The judgments in this case contain some valuable guidance on the relation between negligence and breach of statutory duty. Neither in *Bailey* v. *Geddes* nor *Upson* v. *London Passenger Transport Board* was a breach of statutory duty pleaded as such, although in the former case the breach of the relevant regulation was pleaded as one of the particulars of negligence alleged, but the position would appear to be that the common-law liability for negligence is enhanced by the super-addition of the duties contained in the regulations, provided that the breach of duty is sufficiently pleaded.

The breach will be so pleaded if its substance is alleged as one of the particulars of negligence relied on.

The effect of the 1951 regulations on the foregoing cases has now to be considered. The new regulations revoke all the previous regulations on pedestrian crossings, with the usual saving clause in respect of any act or omission before the coming into operation of the new regulations.

The only regulations which specifically impose any duty on vehicular traffic at all are regs. 4, 5 and 6, and the last two of these are prohibitions as to stopping on or near a pedestrian crossing.

The old regulations, i.e., reg. 3 (speed of approach to a crossing), reg. 4 (allowing free and uninterrupted passage over an uncontrolled crossing) and reg. 5 (allowing uninterrupted passage to a pedestrian who is on the crossing before the motorist has been signalled to proceed) are revoked and replaced by one (reg. 4), which provides that every foot passenger on the carriageway within the limits of an uncontrolled crossing shall have precedence within those limits over any vehicle, and the driver of the vehicle shall accord such precedence to the foot passenger if the foot passenger is on the carriageway within those limits before the vehicle or any part thereof has come on to the carriageway within those limits.

It would appear that to comply with this new regulation the driver of a vehicle will have to do in practice everything that he was required to do by the revoked regulations. If he has to give precedence to any foot passenger who is on the crossing, he must travel at such a speed as to be able, if necessary, to stop before reaching the crossing.

If the driver has to "accord precedence" to the foot passenger and fails to accord such precedence it would appear that he will be guilty of a breach of statutory duty and the principle of *Bailey* v. *Geddes* will be applicable.

The words "if the foot passenger is on the carriageway within those limits [i.e., the limits of an uncontrolled crossing] before the vehicle or any part thereof has come on to the carriageway within those limits" will afford to the driver the protection given to him by the cases of *Knight* v. *Sampson* and *Chisholm* v. *London Passenger Transport Board*, and (in view of the definition of carriageway in reg. 2-(1)) the case of *Wilkinson* v. *Chetham-Strode*. Whether the words "accord precedence" relieve the driver from the liability laid upon him by the decision of *Upson* v. *London Passenger Transport Board* is not so clear. The old wording of the regulation laid upon the driver a duty dependent upon his vision. The regulation clearly stated that, unless he could see that there was no foot passenger on the crossing, he must proceed at such a speed as to be able to stop before reaching the crossing.

The new wording contains no reference whatever to vision and it may be that the omission is significant.

The regulations, as amended in 1952, contain various provisions as to the distinctive marking of these crossings in black and white which will be far more prominent than those subsisting under the previous regulations. The policy of the Ministry of Transport in substantially reducing the number of pedestrian crossings will tend to a greater observance of them on the part of motorists than has been shown in the last few years.

Experiments are being made in the lighting of these crossings during hours of darkness, and adequate lighting will obviate the difficulties referred to by Greer, L.J., in *Sparks* v. *Edward Ash*.

The regulations have not reproduced reg. 5 of the 1941 regulations, which provided that drivers approaching a controlled crossing shall allow free passage to every foot passenger who has started to go over the crossing before the driver received his signal to proceed, and the pedestrian is placed in the same category as a vehicle which has started to go over the crossing immediately before the change of light.

It may be that, as it is the duty of the driver to approach a traffic light which is against him at such a speed as to enable him to stop before reaching the crossing, it is considered by the Minister that reg. 5 of the 1941 regulations was unnecessary.

It is possible, however, to visualise a case where a slow-moving pedestrian reaches the centre of the crossing at the moment when the lights change in favour of on-coming traffic and is knocked down by a vehicle the driver of which has proceeded in response to the traffic signal in his favour.

In all cases, however, it must be remembered that the provision of light signals and pedestrian crossings does not absolve any road user from the duty of keeping a proper look-out and the ordinary laws of negligence would appear to apply. This principle would also appear to be applicable in those cases where there is some technical objection which affects the validity of the crossing. There have been a few prosecutions in the magistrates' courts since the issue of these regulations where the prosecution have failed to prove the approval of the Minister of Transport to the crossing. In such cases there can be no breach of statutory duty, but nevertheless it may be contended that the presence of all the physical characteristics of a crossing for foot passengers will throw upon any driver the duty of taking care to avoid injury to those who assume the validity of a crossing and act accordingly.

L. C.

Costs

GILES *v.* RANDALL RECONSIDERED

MANY of the principles of English law have their roots established in custom, and so it is with some of the principles of law affecting costs. There gradually grew up in the Supreme Court taxing office a custom whereby costs came to be segregated under different headings according to the source from which the costs were to be paid, and this custom was given the force of law by the decision in the case of *Giles* v. *Randall* [1915] 1 K.B. 290. The validity of that decision has been questioned (see below) but it still remains the leading case on the subject.

It will be recalled that in that case it was established that a practice had grown up of differentiating between costs between solicitor and client and costs between solicitor and own client, so that costs might be awarded under any one of three headings, namely, party and party costs, solicitor and client costs and solicitor and own client costs. The basis upon which the costs in any particular case were to be taxed would depend upon which of these three classifications applied and, the court having determined which heading applied, then the taxing master would turn to Ord. 65, r. 27 (29), of the R.S.C. for guidance as to the allowances that he might make.

The second part of this sub-rule provides that, save as against the party who incurred the same, no costs shall be allowed which appear to the taxing master to have been incurred or increased through over-caution, negligence or mistake, or by payment of special fees to counsel or special charges or expenses to witnesses or other persons, or by other unusual expenses, but that on every taxation the taxing master shall allow all such costs, charges and expenses as shall appear to him to have been necessary or proper for the attainment of justice, or for defending the rights of any party.

Accordingly, costs to be taxed on any of the above bases would only be allowed at such an amount as was necessary for the attainment of justice or for defending the rights of the successful party, where those costs are to be paid by any

person other than the one who instructed the solicitor; and even costs to be taxed on a solicitor and own client basis would not necessarily be allowed in full, if any of the items fell within the second part of the sub-rule mentioned above.

The principal point of difficulty has centred on the meaning of the term "solicitor and client costs" as applied in cases where the costs are to be paid by a party other than the one who instructed the solicitor, and, as we have noticed, the matter was determined by the court in the case of *Giles* v. *Randall, supra*, where it was established that in such circumstances, to quote the words of Buckley, L.J., in his judgment, "the taxation is substantially a party and party taxation on a more generous scale."

This decision has been referred to in more than one subsequent case, and in that of *Goodwin* v. *Storrar* [1946] K.B. 457, Denning, J., said: "It may be that *Giles* v. *Randall* would be differently decided at the present day." This matter has been referred to before in these columns and it was then observed that the case of *Goodwin* v. *Storrar* dealt with costs under a particular order and rule of the Supreme Court Rules, and that notwithstanding the doubt expressed by the learned judge in that case as to the aptness of the decision in the case of *Giles* v. *Randall* at the present time, the decision in the latter case still remained the guiding authority for the interpretation of the term "solicitor and client costs," other than in cases where Ord. 22, r. 14 (11), applied. Justification for this observation is provided by the case of *Reed* v. *Gray* [1952] T.L.R. 114, decided by Roxburgh, J., in December last.

This latter case not only confirmed the principles established by the *Giles* v. *Randall* case, but it also explained those principles in some detail, and it removed a doubt as to the precise effect thereof. The taxing master, in his answer to the objections to taxation in the *Giles* v. *Randall* case, stated that so far as a solicitor and client taxation was concerned it "gives little more than a taxation as between party and party, except that any necessary letters to and attendances on the client are allowed." In commenting on the taxing master's answers to the objections to taxation, Buckley, L.J., agreeing with them in principle, said that the statement quoted above was not very well expressed since necessary letters and attendances are allowed as between party and party, so that the taxing master must have meant letters and attendances beyond those which are allowed as between party and party.

This approval by Buckley, L.J., of the taxing master's statement quoted, with the single criticism of the choice of phrasing, has been seized upon at times as indicating the extent of the increase over party and party costs implied in the words "solicitor and client costs" where the costs are to be paid by a party other than the one who instructed the solicitor; and, indeed, it was one of the points taken in the recent case of *Reed* v. *Gray, supra*, for it was there suggested, as it has been suggested before, that following the *dictum* of the taxing master, supported by Buckley, L.J., in the case of *Giles* v. *Randall*, there could be no increase in a solicitor and client taxation over and above a party and party taxation except so far as letters and attendances were concerned, so that the "more generous scale" to which Buckley, L.J., referred could only mean a more generous scale of allowances for letters and attendances, and that all other items in a solicitor and client bill must be taxed on a party and party basis.

This argument found no favour with Roxburgh, J. His lordship observed that the norm or standard on which such costs are to be taxed is to be found in Ord. 65, r. 27 (29), which cannot be varied. Accordingly, where costs are to be taxed on a solicitor and client basis, and paid by a party other than the instructing party, they will be taxed, according to the custom of the taxing office, on a more generous scale than in a party and party taxation. That is to say, *all* the items will be considered in a more generous light, and not merely the items relating to the letters to and attendances on the client. His lordship took as an example a counsel's fee for settling an affidavit. The fee claimed was £3 5s. 6d. and the fee allowed was £2 4s. 6d., and his lordship observed that if a fee of £2 4s. 6d. was a reasonable fee to allow in a party and party taxation then it might very well be that a fee of £3 5s. 6d. was a proper fee in a solicitor and client taxation. As his lordship pointed out, if the principle was that a solicitor and client taxation was to be a party and party taxation on a more generous scale, which was the principle approved by Buckley, L.J., then there was no reason why that principle should not extend to the counsel's fees and all other items and not merely to the letters to and attendances on the client.

The relevance of the decision in *Giles* v. *Randall, supra*, at the present time is thus established, and his lordship pointed out, as with respect it has been pointed out in these columns before, that the case of *Goodwin* v. *Storrar, supra*, has done nothing to upset the principles established in the former case. The case of *Goodwin* v. *Storrar* dealt with costs under a particular order of the Supreme Court Rules, and Ord. 65, r. 27 (29), had no application to the costs in that case. So long as the latter order remains in its present form then the principles laid down in *Giles* v. *Randall* will apply and the standard upon which costs are to be taxed in cases other than those to which Ord. 22, r. 14 (11), applies, will remain that set out in Ord. 65, r. 27 (29). Emphasis should, perhaps, be laid on the fact that even in a solicitor and client taxation, where the costs are to be paid by a person other than the one who instructed the solicitor, the second part of the sub-rule will apply, so that in such taxations, as in party and party taxations, nothing will be allowed in respect of items which have been incurred or increased through over-caution or which represent payments of special fees to counsel or special charges and expenses to witnesses.

Thus, in a solicitor and client taxation, it is still open to the taxing master to disallow, say, part of the fee paid to counsel on his brief on the ground that it is a special fee and consequently more than is justified by the type of case concerned. Similarly, he may disallow a special fee to a witness, even if it can be shown that the fee, although large, is warranted by the witness's social or professional standing and, indeed, was agreed with the witness before the trial. The answer to that is, of course, that in those circumstances the witness should have been subpœnaed.

One word of caution may not be out of place in regard to the direction in the second part of sub-r. (29). It must not be inferred from the wording of this sub-rule that as against the party who instructed the solicitor all costs and expenses arising from over-caution, mistake or negligence, or all special fees to counsel and witnesses will be allowed. The sub-rule states that "save as against the party who incurred the same" such fees and expenses will not be allowed. The fees and expenses are not incurred by the party if they are paid or contracted to be paid without his knowledge and consent, so that before any items which will fall within the ambit of the second part of this sub-rule are incurred by the solicitor he should obtain the client's express approval. If he fails to do so, he will find that the second part of the sub-rule will afford him no assistance.

J. L. R. R.

Procedure

XVII—PURPOSE AND MECHANICS OF SERVICE

A NUMBER of the minor problems of practical litigation concern the method of service of process and other documents. The time-honoured attitude of the principal is to leave such matters to his managing clerk, who in turn delegates the details to his junior or to the post clerk. The energies of professional men ought not, of course, to be occupied with the mechanism of such a menial task in every case. On the other hand, to settle in advance a comprehensive routine for the service of documents, whether by hand or by post, will surely repay the labour and forethought involved. One's managing clerk might well take on the additional duty of training officer in this respect. Or a wall chart showing the methods to be used in the common instances might be prepared for ready reference and exhibited in some convenient position, so long as the man of experience responsible for the safe passage of a matter watches out for any exceptional hazards arising from the special nature of his case.

As a mental discipline let us here consider what is the importance of the procedural ceremony known as service. "I approach this case," said Tucker, L.J., as he then was, in *Paolantonio* v. *Paolantonio* (1950), 66 T.L.R. (Pt. 2) 235, "from the point of view that it is essential to our system of justice that parties to suits should be made aware that proceedings are being brought against them." Again, Lord Greene, M.R., said in *Read* v. *Read* [1942] P. 87: "The system of constructive service, where a defendant can have judgment recovered against him without his ever having any opportunity of knowing that the proceedings are on foot, is a thing against which English jurisprudence has always set its face."

Those citations are both from divorce cases. Now, in regard to its divorce jurisdiction, and to that alone, the court has, and since 1857 always has had, power to dispense altogether with service in particular cases (see now Matrimonial Causes Rules, 1950, r. 82). In the rules of the other Divisions of the High Court there will be found no provision for dispensing altogether with service of the process which originates an action or matter. The paradox of Ord. 9, r. 1, which says that no service of writ shall be required when a solicitor undertakes to accept service, has already been enlarged upon in these columns (95 SOL. J. 509).

Ordinarily service of one sort or another is therefore essential in the case of a writ, originating summons or petition in the High Court. In a purely personal action, personal service is primarily the method which must be adopted, with substituted service either by post or by advertisement as alternatives to be held in reserve and authorised by the court in case of need. This demonstrates from another angle the purpose of service; it is not so much to put a particular document into the hands of the other party as to ensure that he is fairly informed of the proceedings in court and given an opportunity of appearing, if he so desires, with an ultimate view to being heard in the proceedings. Even in the case of personal service, a copy only of the document is usually to be served, though in the inferior courts (and also in divorce proceedings) that copy must be authenticated by the seal of the court, and it is the inveterate custom, at least, to offer to show to the defendant the original of a High Court writ when serving him.

Rules of the Supreme Court, Ord. 9, rr. 9 to 14A, deal with service of writ in particular actions. They provide for Admiralty actions *in rem*, for instance, in which service *is to be* effected by nailing the writ to the mast (r. 12). A similar proceeding for mere land-lubbers is envisaged by r. 9. Thereunder a writ to recover land with vacant possession *may*, when service cannot otherwise be effected, be served by posting a copy of the writ on the door of the dwelling-house or other conspicuous part of the property. But this is a makeshift, not a normal mode of service, and is subject to the disadvantage that if there is default of appearance—as there usually will be, of course—a master's order is necessary before judgment can be entered, and even then judgment will be confined to recovery of the land. Any claim for rent in arrear or for mesne profits must await personal service of the writ or substituted service previously authorised.

The procedure for obtaining an order confirming service by affixing to land or authorising substituted service by post or by advertisement is the usual one in the case of *ex parte* applications. That is, in the Queen's Bench Division an affidavit of the facts is left with the master's secretary and later picked up after the practice master has considered the case and indicated his decision by endorsing the affidavit. In Chancery matters an *ex parte* summons is necessary. In all cases the affidavit is compulsory under the terms of the shortest order in the R.S.C.—the four-line Ord. 10. A convenient remembrancer of the steps ordinarily to be taken to lead to an order for substituted service is the form of affidavit in Chitty, and the notes thereto (17th ed., p. 77 *et seq.*).

Special provisions as to service of process are applicable in the cases of corporations, which invite separate treatment, and of partnerships. By Ord. 48A, r. 3, where persons are sued as partners in the name of their firm, the writ may be served on one or more of the partners; or at the partnership's principal place of business within the jurisdiction upon any person having at the time of service the control or management of the partnership business there. The writ must, however, be accompanied by a notice in writing (of which forms are available) informing the person served of the capacity in which it is intended to serve him (r. 4). Service so effected is good service upon the firm and may lead to judgment in the firm name even in default of appearance; but if it subsequently becomes necessary to issue execution against the property of an individual partner who has not entered an appearance, the leave of the court or a judge is required.

Once the originating process has been served and service has been either proved by affidavit or acknowledged by appearance, personal service of further documents in the same action or matter is not generally required. This must be treated as confined strictly to proceedings in the action itself, which is to say, for practical purposes, proceedings up to judgment. Such processes of execution or enforcement as involve the judgment debtor's being given an opportunity of being heard (garnishee proceedings or judgment summons, for instance) mean seeking out the debtor afresh for personal service. And a bankruptcy notice, it is perhaps scarcely necessary to add, is a proceeding quite distinct from those culminating in the judgment on which it is founded.

In the original action, however, further process may be served and pleadings delivered with some informality. After default of appearance, necessary documents (such as a notice of motion for judgment, or the one month's notice of intention to proceed, essential where more than a year elapsed since the last step taken) may be served by filing them with the proper officer, under Ord. 67 r. 4, but this does not

excuse re-service on the defendant himself of an amended writ. A defendant entering appearance is required to give an address for service, and at that address for service documents and pleadings may be served either by registered post or by hand (Ord. 67, r. 2). If served by hand it is sufficient to leave the document with "any person resident at or belonging to" the place, but *Jiminez* v. *Owen* [1883] W.N. 232 reminds us that it will not do merely to leave it in a letter box there. It is especially to be noticed, in view of what we shall have to say in discussing service on limited companies, that the rule specifies *registered* post. Nevertheless in cases where the appearance has been entered by a solicitor he will usually be prepared, if asked, to save trouble to a professional brother by accepting service by ordinary post. The request is conveniently made by a covering letter. The point of this is simply that it saves registration or a clerk's time and attendance, and provides a useful acknowledgment of the service. Occasionally, alas, the parties' solicitors are not only at arm's length, which is proper, but at daggers drawn, which is normally due to pure pettiness. Then, unless there is time to spare for a possible refusal, it may be as well to serve formally in any case.

J. F. J.

A Conveyancer's Diary

ESSENTIAL QUALITIES OF AN EASEMENT

THE gist of the decision in *Copeland* v. *Greenhalf* (reported at p. 261, *ante*) was that the right there claimed was too wide and uncertain to exist as an easement. The *locus in quo* was a strip of land which connected the plaintiff's orchard to the road, and which formed the only practical access to the orchard. The defendant, who carried on a business as a wheelwright (a business which nowadays, in the defendant's case at any rate, includes the repair of motor lorries or the bodies of such vehicles), used one side of this strip of land for depositing vehicles awaiting repair, vehicles which had been repaired and were awaiting collection, and vehicles which were being repaired, and the evidence was that this strip of land had been so used by the defendant and his predecessor in title for fifty years. The defendant claimed the right to use this strip of land for depositing vehicles as aforesaid as an easement appertaining to the premises which he and his predecessor in title owned and had owned, and used and had used as a wheelwright's shop, for the period of fifty years, and Upjohn, J., who tried the case, accepted his evidence as to user. There would thus have been a valid claim to an easement under the Prescription Act, 1832, if the right claimed were one capable of being the subject-matter of an easement. On this point the decision was given against the defendant.

The learned judge's reasons for his view were as follows: "I think that this right claimed goes wholly outside any normal idea of an easement, which is a right of a dominant tenement and the occupier of a dominant tenement over a servient tenement. This claim . . . really amounts to a claim to a joint user of the land by the defendant. Practically, he is claiming the whole beneficial user of the strip of land on the south-east side of the track there; he can leave as many or as few lorries there as he likes; he enters on it by himself, his servants and agents to do repair work thereon. In my judgment, that is not a claim which can be established as an easement. It is virtually a claim to possession, if necessary to the exclusion of the owner, or, at any rate, to a joint user, and no authority has been cited to me which would justify the conclusion that a right of this wide and undefined nature can be the proper subject-matter of an easement. It seems to me that it must really amount to a right of possession by long adverse possession or nothing at all. I say nothing, of course, as to the creation of such rights by deed or by covenant; I am dealing solely with the question of a right arising by prescription." (See the full report of the judgment in this case at [1952] 1 T.L.R. 786, at p. 791.)

The reference here to "the creation of such rights by deed or by covenant," taken by itself, might perhaps be a little misleading, in that it suggests the existence of a distinction in regard to rights which can be claimed as easements according as they rest on prescription on the one hand, or on grant or in covenant on the other hand. But earlier in his judgment Upjohn, J., had referred to a passage from *Hill* v. *Tupper* (1863), 2 H. & C. 121, 127, to the effect that a grantor may bind himself by covenant to allow any right he pleases over his property, but that he cannot annex to it a new incident as an easement unless the right so annexed possesses the essential characteristics of an easement. That explains the qualificatory reference to the creation of rights by covenant, and doubtless the additional reference to deeds in this connection was intended to add nothing to the reference to covenants. On the other hand, it may perhaps be read as a reference to the creation of easements by grant, and so read it could undoubtedly mislead. Some examination of this part of the judgment is, therefore, justified.

Earlier in his judgment Upjohn, J., had quoted the headnote to *Dyce* v. *Hay* (1852), 1 Macqueen 305, where it is stated that "it does not follow that rights sustainable by grant are necessarily sustainable by prescription." *Dyce* v. *Hay* was, of course, a Scottish case, and if it did really decide anything to support the proposition just quoted (a point of some doubt), it is not necessarily binding on the English courts. For the purposes of English law, the relevant rule seems to be that which makes it impossible for any right to be claimed as an easement unless it is capable of forming the subject-matter of a grant. This rule is historical, in that before the Prescription Act, 1832, it was impossible to plead an easement as originating otherwise than in a grant (whether expressed or presumed is irrelevant for this purpose) (see, e.g., *Goodman* v. *Saltash Corporation* (1882), 7 App. Cas. 633, at p. 654, and the older authorities there reviewed on this point). It is, therefore, clear that, evidence apart, there is and can be in English law no essential difference between an easement created by grant on the one hand, and an easement claimed by prescription on the other hand.

As to the actual decision itself, there are cases in the books which at the very least seem to point to the possibility of a right existing as an easement despite the fact that its assertion must result in the total deprivation of the servient owner's right to possession of the *locus in quo*. These are the cases in which rights to burial in a particular vault, and rights to the occupation of a particular pew in a church, have been recognised as easements appurtenant to an ancient house in the parish. The cases on this subject will be found by any reader interested to pursue this subject in Gale on Easements (12th ed., p. 33), and a good many of the earlier authorities were examined by Charles, J., in *Stileman-Gibbard* v. *Wilkinson* [1897] 1 Q.B. 749, the most recent of these decisions. This was a pew case, and the claimant's case was based on

prescription, but the way in which the essentials of such a claim were dealt with in the judgment was revealing. After observing that the claimant, in order to establish his right, had to show some acts of user, Charles, J., said (p. 758): "If he can do so, then some rightful origin of the undisturbed enjoyment ought to be presumed . . . In other words, a lost faculty ought to be presumed, whereby the occupiers of the particular messuage have had the pew or pews granted to them . . ." Now a faculty is in relation to consecrated land what a conveyance or grant is in relation to non-consecrated land; it is the only method by which rights analogous to legal estates can be created in or over consecrated land. It may be that, apart from the method of its creation, or presumed creation, there is something about an easement over consecrated land that enables it to exist although it lacks one of the characteristics essential to the existence of an easement over other land, but there is nothing in the pew and burial cases to suggest that; the language in which such rights have been described has always been the language appropriate to the discussion of purely secular, common-law rights of easement; and it would be interesting to see how these quasi-ecclesiastical cases should be fitted into an up-to-date statement of the essential requirements of an easement.

A short cut to the same decision as that which was reached in the present case might have been found in the important, but comparatively little known, case of *Hulley* v. *Silversprings Bleaching & Dyeing Company, Ltd.* [1922] 2 Ch. 268. This was a case in which a riparian owner complained of the pollution of a stream by the operation of the defendant company's works higher up the stream, to which the main defence was a plea of a prescriptive right to pollute. In the course of his judgment (in which he found for the plaintiff on several alternative grounds) Eve, J., said this (p. 281): "The progressive increase in the plant in the defendant's mill and in the volume of water polluted is destructive of that certainty and uniformity essential for the measurement and determination of the user by which the extent of the prescriptive right is to be ascertained." The authority relied upon in support of this part of the judgment is *Millington* v. *Griffiths* (1874), 30 L.T. 65. It seems to me that it would have been impossible for the defendant in the present case to have shown that there had been any uniformity about the use by him and his predecessor in title of the plaintiff's land. There must have been variations, considerable variations, in the amount of business done from season to season and from year to year, and on that footing the extent of the right claimed would never have been ascertained precisely enough to make it the subject-matter of a pleading. It is fashionable to decry the fictions on which our forefathers built so many of the rules of the common law, but one virtue of such a fiction as that of the lost modern grant was the necessity that it imposed on anyone desiring to assert a right as an easement to define the nature and extent of his right as if it had originally been defined in a deed. *Hulley's* case shows that a similar necessity faces anyone who relies on the operation of the Prescription Act, 1832, as a title to the enjoyment of rights over his neighbour's land, thus giving a new interpretation of the old rule whereby—rather vaguely, if one may say so in this context—one of the essential attributes of an easement has been considered to be its certainty.

"A B C"

Landlord and Tenant Notebook

CONTROL: THE IMPORTANCE OF A KITCHEN

WHEN, in the course of his judgment in *Cole* v. *Harris* [1945] K.B. 474 (C.A.), Morton, L.J., made the following observation: "In many households the kitchen is the principal living-room, where the occupants spend the greater part of the day. Very often it is the warmest part of the house and the family tend to congregate there for that reason," those interested in the sociological aspect of our legal system may have noted with satisfaction that the judicial section, at all events, of one-half of the world may not be ignorant of the mode of life of the other half. They may, indeed, have been reminded of the interesting divergence of opinion shown by the *obiter dicta* of Atkin and Lawrence, L.JJ., in *Morgan* v. *Liverpool Corporation* [1927] 2 K.B. 131 (C.A.): the former considered that a defective sashcord (in a house within the Housing Act, 1925, s. 1) might make the house not "in all respects reasonably fit for habitation," urging such considerations as the class of house and people concerned, the possible fewness of windows which would be the sole means of ventilation, etc.; while the latter expressed his "emphatic opinion" to the contrary, the utmost that could be said being, he considered, that the room affected was rendered less comfortable. (The actual decision turned on absence of notice, and some years later the views of Atkin, L.J.—by then Lord Atkin—prevailed when he and four of his colleagues heard the appeal in *Summers* v. *Salford Corporation* [1943] A.C. 283.)

Cole v. *Harris* decided, in accordance with the principle laid down in *Neale* v. *Del Soto* [1945] K.B. 144 (C.A.), that a tenant who shared a kitchen, or at all events the kitchen described in the case, with his landlord and another tenant was not the tenant of a house or part of a house let as a separate dwelling and was, therefore, not entitled to the protection of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939. The position as to shared accommodation has since been modified by the Landlord and Tenant (Rent Control) Act, 1949, ss. 7 and 8, but the continued importance of *Neale* v. *Del Soto* in relation to kitchen-sharing has recently been emphasised by *Hayward* v. *Marshall*; *Winchester* v. *Sharpe* [1952] 1 T.L.R. 779; 96 SOL. J. 196 (C.A.).

Before dealing with that case, it may be convenient to observe that the passage from Morton, L.J.'s judgment in *Cole* v. *Harris* which I quoted followed a sentence running: "To my mind a kitchen is fairly described as a 'living-room' and thus nobody who shares a kitchen can be said to be the tenant of a part of a house let as a separate dwelling." For subsequent authorities have shown us that there are kitchens and kitchens. And disappointment awaited those who may have thought that Morton, L.J.'s observations warranted either of the following propositions: (i) that unless a kitchen was used as a living-room, sharing would not matter; (ii) that unless demised premises contained a kitchen, they could not be a dwelling-house.

Neale v. *Del Soto*, which began it all, was, in fact, rather an unfortunate case for principle-propounding purposes. The building concerned was an unusually large house, and the tenant had two rooms and the use, jointly with the landlord, of a large number and variety of other parts of the building: garage, conservatory, bathroom, as well as kitchen. Consequently, it was not necessary to say much about the last-mentioned item, but Morton, L.J., did describe the shared accommodation as "including such a very important room as

the kitchen." But before *Cole* v. *Harris* we had the decision in *Sharpe* v. *Nicholls* [1945] K.B. 382 (C.A.), in which it was held, applying *Neale* v. *Del Soto*, that an order for possession made by a county court judge " subject to plaintiff allowing defendant a Rent Act protected tenancy of the front two rooms, together with joint use of kitchen and out-offices " was invalid. Little was said about the function of the kitchen, or its size, in that case; but that would apply to *Neale* v. *Del Soto* too, as far as the report is concerned. In *Cole* v. *Harris*, however, Morton, L.J., was at pains to peruse the notes taken by the county court judge who had heard *Neale* v. *Del Soto* at first instance, and said that it was plain from such that the parties had shared their meals in the kitchen and divided between them the work of preparing those meals.

These three cases were all decided within a period of less than six months, and it might not be unreasonable to suppose from them that the sort of kitchen-sharing which would take a letting out of the Acts would be the joint use of a kitchen for cooking and eating at least, and possibly for sitting in between meals as well. One might also plausibly have assumed that he who had no kitchen had no dwelling-house.

But such ideas were perforce revised when *Stevenson* v. *Kenyon*; *Kenyon* v. *Walker* (1946), 62 T.L.R. 702 (C.A.), and *Winters* v. *Dance* (1949), 64 T.L.R. 609 (C.A.), added to our knowledge. In the former, it was found by the county court judge that the sub-tenants had not been " given the use of kitchen for all purposes. They never made it a complete living-room, but they had the right to use it at all times for the purpose of cooking, which is the main use of a kitchen . . . A year ago the parties got so on each other's nerves that it was made plain to sub-tenants they were unwelcome in the kitchen, so much so that Mrs. Springer did cooking on an open fire." (Later on, the head landlord supplied her and her co-sub-tenant with a cooker, putting it in a small room opening off their living-room.) But the county court found and held, and the Court of Appeal agreed, that the sub-tenants had never abandoned their right to use the kitchen in the building for cooking purposes and, declining to distinguish between such an agreement and the " equal rights " agreements in the three cases mentioned, held that they were not protected tenants. And *Winters* v. *Dance* then applied the principle to a shared " kitchenette," some 7 feet by 6 feet in area, which Tucker, L.J., described as an " essential living-room."

By then we had had kitchens in which the parties did their cooking together as well as eating together and sitting together, kitchens in which there would be no sitting together, and a kitchen in which there would be no sitting worth speaking of at all, and the principle of *Neale* v. *Del Soto* applied in each case. But the line has now been drawn by *Hayward* v. *Marshall*; *Winchester* v. *Sharpe*, two appeals in which the facts were substantially similar.

They were that (in each case) rooms in a house were let unfurnished, the tenant in the one case being given the right to draw water from the kitchen at all reasonable times and to use the gas stove it contained for the purpose of boiling her washing; in the other, the right to use kitchen (and scullery) was limited to the purpose of drawing water. The county court judge held that the decisions mentioned above did not apply, and was upheld by the Court of Appeal. The gist of the reasoning is that it is the nature of the rights rather than the character of the room that matters, and as drawing water and boiling washing are not incidents of essential living the use of a kitchen for such purposes did not disentitle the tenants to protection.

This means that they had " separate dwellings." We are not told where they did their cooking, if at all. Which draws attention to the other proposition which might plausibly have been based on *Neale* v. *Del Soto* and the two decisions which quickly followed it, namely, that unless demised premises contain a kitchen, they cannot be a dwelling-house. The use of the expression " essential living-room " in the earlier cases, continued, perhaps, unfortunately in the later one, points this way; but there is authority in the shape of other decisions to negative the proposition; nor is it necessary to consider whether, as some rather extreme reformers have queried, *homo sapiens* needs cooked food at all.

It may be that the kitchen question has not yet been properly fought out. Certainly, cases are to be found in which a single room in a house has been held to be a separate dwelling, or admitted to be such, e.g., *Gover* v. *Field* [1944] K.B. 200 (C.A.); in which, however, as far as the report is concerned, the tenant may conceivably have had some cooking facilities. And then there are indications in the judgments in *Curl* v. *Angelo* (1948), 92 SOL. J. 513 (C.A.), that a tenant who has no cooking facilities at all may be protected by the principal Acts though he would not be protected by those Acts if he shared such facilities. " It must not be thought for a moment that I am throwing any doubts on the proposition that where there is a letting to a man of one room where he moves and has his being, that circumstance will prevent the room being a ' dwelling ' within the meaning of the Act . . . " said Greene, M.R. And in *Langford Property Co., Ltd.* v. *Tureman* [1949] 1 K.B. 29 (C.A.), the " two homes " case, the court was more concerned about how often the tenant slept than about how often he ate at the flat claimed.

R. B.

HERE AND THERE

TWO BRILLIANT MINDS

IT is a strange coincidence that two of the most brilliant intelligences nurtured in the law in recent times should have passed away within so short a time of each other, Lord Greene and Sir Stafford Cripps; less than a week separated their deaths. They were much the same age, Lord Greene a few years the senior. They both took silk early, Greene at thirty-nine, Cripps at thirty-six, and would certainly have taken it earlier but for the interruption of the first world war. Both had enormous practices in the most exclusive class of litigation, which at their height were at or about the £30,000 or £40,000 a year level. (In such cases a few thousands more or less make little odds.) Neither was robust in constitution and both men, each in his own way, worked themselves to death. But there the resemblances end abruptly and, beyond them, two human beings could hardly have been more strongly contrasted. There was Greene, the Catholic, the classical scholar, the man of wit, gentleness and amenity, ever remote from the turbulent controversies of politics. There was Cripps, the scientist, the serious Protestant Christian turned Socialist, mercilessly driven forward in public life by an anxious interior urgency to reshape the world within the framework of his conception of social justice, a portent and a puzzle in the political world, a man of many apparently conflicting characteristics, who preserved, in the full light of modern publicity, an essential incognito so that no one really knew him as other simpler men are known. It may be doubted whether the final achievement of either Lord Greene or Sir Stafford Cripps really matched the brilliance of their

gifts. Of Lord Greene it was generally agreed that he was far greater as an advocate than as a judge; his was the very perfection of advocacy. Of Cripps it was felt that his lack of an early political education accounted for much of the fretting frustration in his public life.

ENIGMATIC PERSONALITY

THE inner truth about Sir Stafford Cripps is bound to remain indefinitely a topic of dispute and controversy, of conflicting interpretations and misinterpretations for, despite a sense of underlying consistency in his personality, his life and character are divided, as it were, not only horizontally but vertically too. His career, starting conventionally, passed through a turbulent revolutionary phase and finished up on a lofty and lonely plateau of economic statesmanship. His character was bewilderingly diverse, compounded of elements not, indeed, irreconcilable, but hard to piece together into a single coherent conception. Nor did he ever try to explain himself. His religious faith and his political and economic principles, yes; these he expounded with all the extraordinary lucidity of which he was a master, for they belonged to the realm of ideas; but himself, no. In the days of his most inflammatory revolutionary zeal, when he was ready and anxious to make common cause with the Communists in a "Popular Front," his attitude seemed strange to some in a member of the privileged classes, sprung from a family rooted in the land and transmitting hereditary wealth, who had made a fortune for himself, but the phenomenon was not without ample precedent in English public life. One remembers (once one has heard of him one cannot readily forget) Lord Stanhope, the father of the famous Lady Hester, who embraced the principles of the French Revolution with such zeal that he assumed the style of "Citizen Stanhope," renounced the use of his coat of arms, his horses and carriages, and anything else in his surroundings that he found "too damned aristocratical," sending his sons to the smithy and his daughter to keep turkeys on the common. There was a case far more extreme, for though Sir Stafford's personal tastes were simple, they were not eccentric. Even his appearance of asceticism was misleading; it was really the outward and visible sign of half a lifetime's fighting with ill health and a disastrously bad digestion which forced him from a certain moment to accept the fact that meat, fish and fowl were for him thenceforward, in his own words, not "edible substances."

FIRST THINGS FIRST

THE puzzle about him is to know where authority ended and humanity began. The impression he created of an uncompromising rigidity and even puritanism was no illusion but, on the other hand, neither was the puckish humour and even gaiety which constantly lit up his personal relationships. The quality of his seriousness can perhaps be best illustrated by his own definition of austerity. It is, he said, "really only seeking the outward sign of the intensity of inward purpose. It is only necessary or desirable to give that outward sign in so far as it does really demonstrate the totality of effort and equality of sharing that effort." You see, there is no rhetoric there for the emotions, no appeal to anything but the mind. It is as careful as a legal definition in a text-book. That is the element in him that created the impression that he was not quite human. A writer in the *New Statesman* hit off rather neatly the sense of what ordinary people felt was wanting in him with the phrase that he was "lacking in badness." Both for himself and for others he was incapable of making concessions to human weaknesses when he conceived that the necessities of the situation called for courage and strength. His was no "sugar-daddy" conception of statesmanship, nor was his Christianity, which permeated all his being, a religion *sucré*, a soothing syrup. He demanded of himself and of others that which is the most difficult thing for ordinary, sentimental, distracted, muddled mortals, that in thought and action first things be put first.

RICHARD ROE.

REVIEWS

Latey on Divorce. Fourteenth Edition. Editor-in-Chief: WILLIAM LATEY, M.B.E., of the Middle Temple, one of Her Majesty's Counsel; assisted by JOHN LATEY, M.B.E., B.A., of the Middle Temple, Barrister-at-Law. Editor: J. B. GARDNER, M.A., of the Inner Temple, Barrister-at-Law, and D. R. LE B. HOLLOWAY, LL.B. (Hons.), of the Divorce Registry. 1952. London: Sweet & Maxwell, Ltd. £6 6s. net.

To indulge in indiscriminate eulogy of a new publication tends to create a suspicion that the work under review is not as perfect as it is alleged to be. However, it is difficult to resist the temptation to eulogise wholeheartedly the new edition of Latey on Divorce, for this is indeed, both in matter and method of compilation, an absolutely first-class work. The legislative changes made since the last edition of this work was published at the end of 1945, and the numerous decisions given since that date, are all embodied in the new edition. Legal aid is dealt with in the clearest possible manner. In fact, everything is to be found in the new edition—cases, statutes, rules, orders, forms, practice notes and directions—all set out and arranged and explained so as to give the practitioner information on every aspect of divorce law and practice, including summary jurisdiction. The arrangement of the new edition is masterly, and ably assisted by an Index which is both comprehensive and clear. The text is sub-divided into numbered sections, and this is invaluable for purposes of quick reference. The law on any subject, though it can never be put satisfactorily into a series of self-contained nutshells, nevertheless generally lends itself to orderly arrangement in the way of subject-matter or established propositions. So many legal text-books have a habit of comprising admirable matter but lacking systematic arrangement, and tending to ramble on from one decided case to another without any attempt to establish any proposition or even direct a line of thought into useful channels. But no such criticism can be made of the subject of this review. The sub-division of the text into numbered sections helps investigation into the subject-matter. For example, the chapter on Desertion deals with every aspect of that tricky subject in such a way as to simplify greatly the work of the practitioner. The book is divided into two parts. Part I deals with Divorce and Matrimonial Causes, and Pt. II with Practice in suits under the Matrimonial Causes Rules. The nine Appendices contain, among other matters, the relevant statutes and rules, and practice notes and directions. Comprehensive, orderly and accurate are the epithets which may be applied to the new edition of this book.

Emmet's Notes on Perusing Title and on Practical Conveyancing. Second (Cumulative) Supplement to the Thirteenth Edition. By J. GILCHRIST SMITH, LL.M., Solicitor (Honours). 1952. London: The Solicitors' Law Stationery Society, Ltd. 10s. 6d. net.

If anyone were tempted to believe that conveyancing is a quiet backwater in which there is little or no change of practice from one generation to another, a glance at this Supplement would cause an immediate revision of his opinions. Covering the period of a little more than two years since the issue of the second volume of the main work, this Supplement runs to 107 pages, besides tables of contents, statutes, orders and cases. The Supplement is in similar form to the First Supplement, which it replaces, and is divided into two parts. Part I contains a general summary of the more important changes in the law, particularly those arising from new

legislation, while Pt. II consists of a page-by-page noter-up for the main volumes. Although the law is expressed to be stated as at 31st December, 1951, the introduction is dated 14th February, 1952, and opportunity has been taken of including one or two of this year's decisions. Of topics dealt with in the general summary, the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, the Leasehold Property (Temporary Provisions) Act, 1951 (a " temporary " Act already on the way to becoming " permanent "), and the New Streets Act, 1951, all receive detailed treatment, and there are helpful notes on bequests to nationalised hospitals, land tax, sales to tenants and other matters. It is, perhaps, not so very difficult for the conveyancer to keep abreast of the cases and statutes which affect his branch of the law, but the value of this Supplement to the busy man lies in its integration of all new developments with the existing framework of conveyancing practice, and it is thus indispensable to all who possess the main work. The publishers are to be congratulated on the promptness with which the Supplement has appeared, having regard to present-day circumstances.

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951. Reprinted from Butterworth's Annotated Legislation Service. By ROBERT SCHLESS, of Gray's Inn, Barrister-at-Law. 1951. London: Butterworth & Co. (Publishers), Ltd. 17s. 6d. net.

It is of great benefit to the profession to have a detailed commentary, section by section, on a new statute of such importance in our topsy-turvy world as the inelegantly named Act on which Mr. Schless writes. (Inelegance surely passes into ghoulishness in the heading of Sched. III: " Financial Provisions Consequential on Treating a Person Dying on Service as Alive and the Converse.") A general introduction of some twenty pages leads to the main commentary, after which the relevant rules and regulations are appended and a full index added. The whole makes up into 154 pages of valuable practical material.

The subject-matter of Pts. I, II and III of the Act is such that there is no lack of authority on the construction of parallel provisions in other Acts, and Mr. Schless has been assiduous in seeking out the relevant cases decided under the Courts (Emergency Powers) Acts, and under landlord and tenant law. These are succinctly referred to with, occasionally, citations from the judgments. Perhaps the search could have been more selective. The practitioner already knows, we imagine, that " Persons who have entered into partnership with one another are, by the Partnership Act, 1890, called a firm " (p. 75), while little is gained by quoting out of its context of fact Lord Greene's observation that it is wrong for a judge to exclude from his consideration matters which he ought to take into account!

But to have given us a well-produced guide, such as this certainly is on the whole, so soon after the enactment of a complicated measure, is an achievement for which author and publishers may claim our gratitude.

The Formation and Annulment of Marriage. By JOSEPH JACKSON, M.A., LL.B. (Cantab.), LL.M. (Lond.), of the Middle Temple and South-Eastern Circuit, Barrister-at-Law. 1951. London: Sweet & Maxwell, Ltd. £2 2s. net.

Lord Justice Hodson's foreword to this book is in itself a short review of the work, and since it is a laudatory review and speaks of the scholarly and lucid manner in which the author has thrown light on the many confused questions propounded by the subject, further praise in these columns would be as superfluous as impertinent.

The subject is one which gives a good deal of scope for discussion of theory, for so many of its more interesting problems are either bound up with a conflict of laws or turn on distinctions such as that between void and voidable marriages. Mr. Jackson has, however, presented these problems in a manner directed to the emphasis of their everyday importance. For instance, his chapter on Formalities of Marriage deals first with the domestic law, setting out with adequate discussion the requirements as to place, witnesses, hours, banns and licence, and the case law on names; and proceeds to a study of the principles on which the English courts, whether at common law or pursuant to statute, give recognition to marriages celebrated abroad. Non-consummation falls for similar treatment. The chapter on Categories and Concepts of Annulment enlightens the void-voidable distinction by thirty-five pages of text under several practical heads, including the need for a decree, the effect of the decree on children, and income tax. This section also considers in detail some important points in relation to settlements.

As the title implies, this is not a review of the whole field of matrimonial law. But the particular corner of the field selected for survey is so fertile of practical difficulties, and is so thoroughly covered here, that the practitioner is likely to have frequent occasions to call in aid the results of the author's researches.

OBITUARY

MR. S. N. CARVALHO

Mr. Samuel Nunes Carvalho, solicitor, of Moorgate, London, E.C.2, died on 7th April, aged 74. He was admitted in 1900.

MR. G. W. CHAMBERS

Mr. George William Chambers, solicitor, of Cardiff, died recently. A native of Brighouse, Yorkshire, he went to Cardiff in 1889 as solicitor to the third Marquis of Bute, and held the same position with the fourth Marquis, retiring in 1937.

MR. T. E. CRARER

Mr. Thomas Edward Crarer, solicitor, of Lichfield, died recently at the age of 46. He was admitted in 1929.

MR. J. G. CULTON

Mr. John G. Culton, solicitor, of Dublin, whose father was the late George N. Culton, K.C., has died in Dublin at the age of 65.

MR. W. U. HAMMOND

Mr. Wilfred Usborne Hammond, solicitor's clerk, of Ashford, Kent, died on 5th April. He retired in 1947 after fifty years' service with Messrs. Hallett & Co., of Ashford, and had served as assistant magistrates' clerk under five chairmen of the Bench and two clerks to the justices.

MR. S. J. HILL

Mr. Sydney James Hill, retired solicitor, of Liverpool, died on 19th April. He was admitted in 1906, was appointed a Justice of the Peace for Liverpool in 1938, and was a former member of Liverpool City Council.

MR. A. HILLS

Mr. Alfred Hills, solicitor, of Braintree, died on 19th April at the age of 78. He was admitted in 1901.

SIR WILLIAM MUNDAY

Sir William Lunscombe Munday, solicitor, of Plymouth, died on 15th April, aged 87. Admitted in 1887, he was elected to Plymouth Town Council in 1898, became an alderman in 1911 and served on the council until 1930. He was president of the Plymouth Law Society in 1926–27 and again ten years later.

MAJOR C. R. M. PARR

Major Cecil Robert Morrall Parr, solicitor, of Temple Row, Birmingham, died recently. He was admitted in 1905.

MR. J. A. TUCKER

Mr. James Allon Tucker, solicitor, of Bath, thought to be the oldest practising solicitor in the country, died on 22nd April, aged 96. Admitted in 1877, he was formerly chairman of Bath licensing magistrates and a Justice of the Peace for fifty years.

NOTES OF CASES

HOUSE OF LORDS

INCOME TAX: OVERDRAFTS INCURRED IN U.K. TRANSFERRED AND DISCHARGED ABROAD

Inland Revenue Commissioners *v.* Gordon

Lord Normand, Lord Morton of Henryton, Lord Tucker and Lord Cohen. 26th March, 1952

Appeal from the Court of Session ([1950] S.C. 353).

The taxpayer was a partner in a firm in Ceylon. He visited this country in 1940, and had to remain owing to war conditions. He made an arrangement with a bank whereby he was allowed, without security, to overdraw his London account, the overdraft being periodically transferred to his account in Ceylon, where it was discharged by his share in the firm's profits. He was assessed to tax on the debits transferred to Ceylon as money remitted to the United Kingdom, under Sched. D, case V, r. 2, of the Income Tax Act, 1918, which provides: "The tax in respect of income arising from possessions out of the U.K. . . . shall be computed on the full amount of the actual sums annually received in the U.K. from (*a*) remittances payable in the U.K., or from (*b*) property imported, or from (*c*) money or value arising from property not imported, or from (*d*) money or value so received on credit or on account in respect of any such remittances, property, money or value brought . . . into the U.K. . . ." The Commissioners discharged the assessment, and the Court of Session affirmed their decision. The Crown appealed.

LORD COHEN said that the dispute had concentrated on whether the Crown could bring their claim within (*a*) or (*d*). It had been held below that the case was concluded against the Crown by *Hall* v. *Marians* (1935), 19 Tax Cas. 582; that case was not distinguishable from the present in any material respect. The debt created in London was to be repaid in Ceylon, so that the rupees applied in payment became the property of the bank; even if they were remitted to London (of which there was no evidence) they could not be said to be the property of the taxpayer. The income receipts of the taxpayer were all received in Ceylon; his money receipts in London were advances of capital, and the express agreement between the taxpayer and the bank was not that the advances were made on credit or on account in respect of income in Ceylon which it was intended to bring to London, but that the debt should be discharged in Ceylon. The order below was right and the appeal should be dismissed.

The other noble and learned lords agreed. Appeal dismissed.

APPEARANCES: *J. Millard Tucker*, Q.C., *Sir Reginald P. Hills* and *I. H. Shearer* (of the Scottish Bar) (*Solicitor of Inland Revenue*); *E. J. Keith*, Q.C., *D. Maxwell* and *Margaret MacIntyre* (all of the Scottish Bar) (*Lawrence-Jones & Co.*, for *Warden, Bruce & Co.*, W.S. Edinburgh, and *J. C. Muir & Barr*, Glasgow).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

WILL: GIFT OVER IN CASE OF NATIONALISATION OF HOSPITAL: ROYAL COLLEGE OF SURGEONS: WHETHER A CHARITY

Royal College of Surgeons of England *v.* National Provincial Bank, Ltd., and Others

Lord Normand, Lord Morton, Lord Reid, Lord Tucker and Lord Cohen. 3rd April, 1952

Appeal from Court of Appeal (*sub nom. In re Bland-Sutton's Will Trusts; National Provincial Bank, Ltd.* v. *Middlesex Hospital* [1951] Ch. 485; 1 T.L.R. 629; 95 Sol. J. 121).

By her will dated 13th January, 1943, the testatrix directed her executors to pay the residue of the income of the endowment fund each year to the treasurer of the Middlesex Hospital for the maintenance and benefit of the Bland-Sutton Institute of Pathology carried on in connection with the hospital; she further provided that if the Institute ceased to be carried on as a pathological research institution or if its name should be changed or "should the Middlesex Hospital become nationalised or . . . pass into public ownership" the capital and income of the endowment fund should be paid to the Royal College of Surgeons. The testatrix died on 10th February, 1943. The Institute was part of a medical school which until 5th July, 1948, was a department of the hospital. On that day the hospital vested in the Minister of Health under the National Health Service Act, 1946, but the property of the school was not transferred; it was separated from the hospital and vested eventually in a new incorporated body. Danckwerts, J., held that the Middlesex Hospital had not become "nationalised" within the contemplation of the testatrix, but if the defeasance clause had become operative, the Royal College of Surgeons had been capable of taking under the gift over as it was a charity. The Court of Appeal, reversing Danckwerts, J., held that, upon the proper construction of the will, the hospital had become "nationalised," but that the defeasance clause did not operate because the Royal College of Surgeons was not a charity. The college appealed to the House of Lords.

LORD MORTON said that the hospital had become "nationalised" within the meaning of the will. The test to be applied was: had the hospital ceased to exist? If not, there was no doubt that it had been nationalised. The more important question was whether or not the college was a charity in the sense in which the word was used in English law. He (the learned judge) took this opportunity of saying that he hoped the Legislature would soon embark on the task of giving a comprehensive statutory definition of charity. The charter of the college granted by King George III in 1800, by which it was established, stated in the recital that the object of the college was "the due promotion and encouragement of the study and practice of the art and science of surgery." The words "study" and "practice" embodied two ideas, research in the laboratory and practical experience gained only by using implements upon human or other bodies. The object of the college was to promote the art and science of surgery by encouraging each of those activities. In *In re Royal College of Surgeons* [1899] 1 Q.B. 871, the Court of Appeal held the income of the college not to be "for the promotion of science" within the meaning of s. 11 (3) of the Customs and Inland Revenue Act, 1885, and thought that the promotion of the interests of practising surgeons was one of the main objects of the college. He (his lordship) did not so read the charters; he thought that that was an incidental, though an important and perhaps necessary, consequence of the work of the college in carrying out its main object. The college was, therefore, in law a charity.

The other noble and learned lords concurred; but LORD COHEN dissented from the view that the college was a charity. Appeal allowed.

APPEARANCES: *Cross*, Q.C., and *L. J. Morris Smith* (*Wilde, Sapte & Co.*); *Nigel Warren* (*Withers & Co.*); *S. Pascoe Hayward*, Q.C., and *Goff* (*Peake & Co.*).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

COURT OF APPEAL

RENT RESTRICTION: DWELLING-HOUSE LET TOGETHER WITH LAND: BUSINESS OF LETTING CAMPING SITES: WHETHER PROTECTED TENANCY

Feyereisel *v.* Turnidge

Somervell, Denning and Romer, L.JJ. 4th March, 1952

Appeal from Parker, J.

In November, 1946, the then owner of a piece of land let a part of it to the plaintiff. The agreement was made by the parties themselves and was as follows: "I hereby grant to the plaintiff part of the camping site known as the 'Smuggler's Leap,' situated on the north and east side of the road running through the ground. This part contains three 'bus bodies and two trailers on ground rents and three 'bus bodies on hire, also shop, shed, garage occupied by himself. The tenant is to maintain and keep in fair condition buses and bungalow, occupied by himself. The tenant is to maintain and keep in fair condition buses and bungalow, replace any broken windows, and provide two coats of good paint in the period of renting. This is at a rental of £3 per week, the payment of £13 to be made on the first of each month." In an action tried at Maidstone Assizes on 25th July, 1951, the defendant counter-claimed and was granted an order for possession of the land and buildings. The plaintiff had contended *inter alia* that he was entitled to the protection of the Rent Restrictions Acts, by virtue of s. 3 (3) of the Act of 1939. Parker, J., held that in substance what was let to the plaintiff was land to enable him to carry on the business of letting out camping sites and, as it were, as an adjunct to that he was let the bungalow on that land to enable him to live in and carry on the business; accordingly, the letting was not within s. 3 (3) of the Rent and

Mortgage Interest Restrictions Act, 1939, and therefore was not protected by the Rent Acts. The plaintiff appealed. The Act of 1939 provides by s. 3 (3): "Subject to the provisions of para. (*a*) of the last preceding subsection [licensed and furnished premises], the application of the principal Acts, by virtue of this section, to any dwelling-house shall not be excluded by reason only that part of the premises is used as a shop or offices or for business, trade or professional purposes; and for the purposes of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1938, as amended by . . . this section, any land or premises let together with a dwelling-house shall, unless the land or premises so let consists or consist of agricultural land exceeding two acres in extent, be treated as part of the dwelling-house; but, save as aforesaid, the principal Acts shall not, by virtue of this section, apply to any dwelling-house let together with land other than the site of the dwelling-house."

SOMERVELL, L.J., said that the effect of s. 3 (3) was as follows: (1) a dwelling-house did not cease to be protected simply because a substantial part of it was used for business purposes; (2) a dwelling-house did not cease to be protected simply because it was let with something else which was an adjunct to it, such as a garden, a yard, a garage or a paddock; but (3) a dwelling-house was not protected if it was let with more than two acres of agricultural land; or if something else, such as a factory or a business, was the main object of the letting and the dwelling-house was merely an adjunct to it. The present case came within the third category. The camping site was the main object of the letting and the bungalow was an adjunct to it. Accordingly the premises were not protected by the Rent Acts. He agreed with the construction placed on s. 3 (3) by the Court of Session in *Pender* v. *Reid* [1948] S.C. 381, which construction Parker, J., had adopted in the present case. The appeal would be dismissed.

DENNING and ROMER, L.JJ., delivered concurring judgments. Appeal dismissed.

APPEARANCES: *G. Thesiger*, Q.C., and *Stuart Daniel* (*Pattinson and Brewer*, for *Robert C. Wilson*, Margate); *G. Pollock*, Q.C., and *Malcolm Morris* (*Kingsford, Dorman & Co.*, for *Girling, Wilson and Bailey*, Margate).

[Reported by J. A. GRIFFITHS, Esq., Barrister-at-Law.]

QUEEN'S BENCH DIVISION

TORT: LIABILITY OF LUNATIC

Morriss *v.* Marsden

Stable, J. 25th March, 1952

Action.

The plaintiff, the manager of a hotel, was violently assaulted and struck on the head by the defendant, a guest in the hotel, and sustained serious injuries. The defendant ran away, was arrested, placed on trial, found unfit to plead, and ordered to be detained in Broadmoor. The plaintiff brought an action in respect of personal injuries.

STABLE, J., said that, after considering the medical evidence, he would approach the legal problem from the factual basis that the assault was committed by a certifiable lunatic whose brain was so disturbed by disease that, while he knew the nature and quality of his act, he did not realise that that act, under the existing circumstances, was wrong. On that, it had been submitted for the defendant that the Macnaghten rules applied, and absolved the defendant from civil as from criminal liability, and *White* v. *White* [1950] P. 39 was cited as authority; but that case did not support such a proposition, which was not the law, and never had been. For the plaintiff to succeed, he must aver and prove a voluntary act, an act directed by the mind: an act done in a state of automatism or somnambulism would not be actionable. Such a view seemed to be supported by *National Coal Board* v. *Evans & Co.* (*Cardiff*), *Ltd.* [1951] 2 K.B. 861; 2 T.L.R. 415. It must also be considered whether, when the defendant knew the nature and quality of his act, it was a defence that he was incapable of knowing that his act was wrong. The conclusion was, that knowledge of wrongdoing was an immaterial averment, so that it was sufficient for the plaintiff to prove knowledge by the defendant of the nature and quality of his act. That view was supported by *Astle* v. *Astle* [1939] P. 415; 55 T.L.R. 1045. There would accordingly be judgment for the plaintiff for £5,841 general and special damages. Judgment for the plaintiff.

APPEARANCES: *F. W. Beney*, Q.C., and *D. Stinson* (*John Bartlett & Son*, for *Aldrich, Crowther & Bartlett*, Brighton); *Gerald Thesiger*, Q.C., and *M. D. Van Oss* (*Neish, Howell and Haldane*).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

PRACTICE NOTE

LEGAL AID: COSTS: DISCONTINUANCE OF PROCEEDINGS IN DIVISIONAL COURT

Lord Goddard, C.J., Ormerod and Parker, JJ. 18th March, 1952

LORD GODDARD, C.J., gave a direction that where, in a case in the Divisional Court list, an assisted person intimated a desire to proceed no further with the case, so that it became necessary to apply for an order to tax the costs of the assisted person up to the date of discontinuance, application might be made to the Master of the Crown Office for an order for taxation. It was not necessary to make the application to the Divisional Court.

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

COURT OF CRIMINAL APPEAL

PRACTICE NOTE

CRIMINAL LAW: REASONABLE DOUBT

Lord Goddard, C.J., Ormerod and Parker, JJ. 1st April, 1952

LORD GODDARD, C.J., in delivering the judgment of the court in an appeal against conviction, said that the ground of appeal was that the chairman had wrongly directed the jury as to the meaning of "reasonable doubt." He (his lordship) had never heard any court give a real definition of that phrase. Attempts to define it led to confusion, and it would be much better if it were not used, but instead the jury were told that their duty was to regard the evidence, and make sure that it satisfied them so that they felt sure in giving their verdict. It was to be hoped that that direction would be given in future.

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

EVIDENCE GIVEN AFTER RETIREMENT OF JURY: CONVICTION QUASHED

R. *v.* Owen

Lord Goddard, C.J., Ormerod and Parker, JJ. 7th April, 1952

Appeal from a conviction at Chester Assizes.

The appellant was charged with offences against a young girl. After the jury had retired to consider their verdict, they sent a message to the judge asking a question of fact. The judge, who considered the question one of vital relevance, which the prosecution could have proved as part of their case, allowed a witness to be recalled, who gave the necessary evidence. The jury returned a verdict of guilty. The prisoner appealed.

LORD GODDARD, C.J., reading a reserved judgment, said that the court did not wish to limit the discretion of a judge to admit further evidence for the prosecution, after the close of the defence, to rebut matters raised for the first time in the defence. But it was very different, after both cases were closed, to allow the prosecution to give further evidence which was not by way of rebuttal in order to clear up some matter which was troubling the jury. The prosecution must prove their case, and further evidence could not be given after summing-up. If that were allowed, it was difficult to see what limitation could be made. In the present case the question raised was most pertinent, but the jury should have been told that the prosecution had adduced such evidence as they thought fit, and that the case could not be reopened. The court thought it right to lay down that once the summing-up was concluded, no further evidence could be given. Appeal allowed.

APPEARANCES: *J. J. Roberts* (*Registrar, Court of Criminal Appeal*); *Bertrand Richards* (*Hatchett Jones & Co.*, for *Edward Jones & Son*, Blaenau Festiniog).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

Mr. Riley Lambert, retired solicitor's clerk, of Bingley, left £4,365 (£4,315 net).

Mr. A. E. C. Ludlam, solicitor, of Sheffield, left £32,522 (£32,200 net).

Col. Ernest Martineau, retired solicitor, of Birmingham, left £122,633 (£121,961 net).

Mr. P. H. Parker, solicitor, of Ormskirk, left £50,488 (£50,192 net).

Mr. W. S. Rothera, solicitor, of Nottingham, left £42,005 (£41,682 net).

Mr. G. H. Stephens, solicitor, of Exeter, left £20,997 (£19,651 net).

SURVEY OF THE WEEK

HOUSE OF LORDS

Progress of Bills

Read First Time :—

London County Council (General Powers) Bill [H.C.] [22nd April.

Read Second Time :—

Costs in Criminal Cases Bill [H.L.] [24th April.
Llanelly District Traction Bill [H.L.] [23rd April.
London County Council (Holland House) Bill [H.C.] [24th April.
Prison Bill [H.L.] [24th April.

Read Third Time :—

Army and Air Force (Annual) Bill [H.C.] [24th April.
Hydro-Electric Development (Scotland) Bill [H.C.] [24th April.
Miners' Welfare Bill [H.C.] [24th April.

HOUSE OF COMMONS

A. Progress of Bills

Read First Time :—

Family Allowances and National Insurance Bill [H.C.] [22nd April.

To provide for increasing rates of allowances under the Family Allowances Act, 1945, and rates or amounts of contributions and benefits under the National Insurance Acts, 1946 to 1951; and for purposes connected with the matters aforesaid.

Read Second Time :—

Cockfighting Bill [H.C.] [25th April.
Empire Settlement Bill [H.C.] [21st April.
Housing Bill [H.C.] [22nd April.
Hypnotism Bill [H.C.] [25th April.
Lancaster Palatine Court (No. 2) Bill [H.C.] [25th April.
Rating and Valuation (Scotland) Bill [H.C.] [21st April.
Tyne Improvement Bill [H.L.] [24th April.

In Committee :—

National Health Service Bill [H.C.] [24th April.

B. Questions

Road Service Licences (Appeals)

The Minister of Transport stated that since he had taken office there had been no appeals to him under s. 81 of the Road Traffic Act, 1930, in connection with public service vehicle licences.

With regard to road service licences, he had dealt with 56 appeals. Of these, 22 were against the refusal of licences, and in each case he had upheld the learned licensing authority's decision. Eighteen appeals were against the grant of a licence or against conditions attached to licences. In ten of these cases he had made orders on the licensing authorities reversing their decisions in whole or in part. Six cases related to the variation of conditions attached to licences on which he had made one order amending the variations. The remaining ten cases covered more than one category and he had made orders in three of these cases revoking the licences granted.

In addition, 31 appeals had been lodged but not yet decided; 14 of these were against refusals of licences; ten against licences as granted, six related to variations of conditions, and one related partly to refusal of a licence to one applicant and partly to the grant of a licence to another applicant.

Some of the cases on which these appeals were based embraced several appeals relating to the same subject-matter. It was impossible to generalise as to whether parties generally were dissatisfied with the decisions of the licensing authorities; the appeals came from various interested parties—from the railways, from nationalised bus companies, and from a large number of privately owned bus companies. [21st April.

National Insurance Claims (Representation)

Mr. Barnett Janner asked whether the Minister was aware of the serious hardship caused to claimants who, owing to illness or otherwise, were prevented from appearing before the local National Insurance Tribunal and who were not allowed to be represented by a near relative, even a son, if he happened to be a barrister or a solicitor, and if he would amend reg. 13 of the National Insurance (Determination of Claims and Questions) Regulations, 1948, to remedy this position. Brigadier Medlicott asked whether the Minister was aware of a case at Skipton in which a solicitor was not allowed to conduct the case of his mother who had been bedridden for three months. Was he aware that the right of a citizen to be represented by an advocate had in fact existed from time immemorial and that the modern tendency to interfere with this right was a great deprivation to those who were not blessed with the gift of fluent speech.

Mr. Turton said there had been a similar regulation for over thirty years. Committees had been appointed to go into the question and had come to the conclusion that a rule prohibiting legal representation was the fairest way of expediting business and of securing justice for the claimant. Furthermore, it would be improper for him to comment on a matter which might be the subject of an appeal to a commissioner. [21st April.

Requisitioned Properties (Working Party)

Mr. Harold Macmillan stated that a Working Party had been set up, comprised of representatives of the local authority associations, the London County Council and the Ministry of Housing and Local Government. Its terms of reference were to review the arrangements for emergency accommodation which had been continued in England and Wales since the war, and to report on the measures necessary for relieving the central Government from financial responsibility for the housing of families in requisitioned premises at an early date. [22nd April.

Lettings (Premiums)

Asked by Mr. Gibson whether he was aware that the law against the charging of premiums for letting flats and houses was being evaded by the charging of excessive sums for fittings and furniture, and whether he would take steps to make the practice illegal, Mr. Harold Macmillan said he had not had many representations on this practice. It was already illegal under s. 3 of the Landlord and Tenant (Rent Control) Act, 1949, and he had no reason to suppose that those responsible for instituting proceedings failed to act when allegations were made. The matter rested with the local authorities. If there were any difficulties he was sure they would do their duty. [22nd April.

STATUTORY INSTRUMENTS

Argyll County Council (Allt Deucheran and Allt Buidhe) Water Order, 1952. (S.I. 1952 No. 804 (S.33).) 5d.

British Commonwealth and Foreign Parcel Post Amendment (No. 2) Warrant, 1952. (S.I. 1952 No. 797.) 5d.

British Commonwealth and Foreign Post Amendment (No. 6) Warrant, 1952. (S.I. 1952 No. 796.)

Civil Defence (Police) Regulations, 1952. (S.I. 1952 No. 764.)

Civil Defence (Police) (Scotland) Regulations, 1952. (S.I. 1952 No. 781 (S.31).)

County Council of the County of Berwick (Earnscleugh) Water Order, 1952. (S.I. 1952 No. 786 (S.32).) 5d.

Greenwich Park Regulations, 1952. (S.I. 1952 No. 777.) 5d.

Housing (Rate of Interest) Order, 1952. (S.I. 1952 No. 772.)

Ice-Cream (Heat Treatment, etc.) Amendment Regulations, 1952. (S.I. 1952 No. 815.)

Inland Post Amendment (No. 8) Warrant, 1952. (S.I. 1952 No. 795.) 5d.

Lincolnshire River Board Area (Eels and Elvers) Order, 1952. (S.I. 1952 No. 794.)

Liverpool–Preston–Leeds Trunk Road (Penwortham New Bridge) Order, 1952. (S.I. 1952 No. 770.)

London Traffic (Prescribed Routes) (No. 7) Regulations, 1952. (S.I. 1952 No. 790.)

London Traffic (Prohibition of Waiting) (Reigate) Regulations, 1952. (S.I. 1952 No. 791.)

Marriages Validity (St. Ann's Church, Stretford) Order, 1952. (S.I. 1952 No. 765.)

North Norfolk Rivers Catchment Board (Reconstitution of the Cley and Wiveton Internal Drainage Board) Order, 1952. (S.I. 1952 No. 783.) 5d.

North Norfolk Rivers Catchment Board (Reconstitution of the Stiffkey River Internal Drainage Board) Order, 1952. (S.I. 1952 No. 784.) 5d.

Parliament Square Gardens Regulations, 1952. (S.I. 1952 No. 775.)

Private Improvement (Rate of Interest) Order, 1952. (S.I. 1952 No. 774.)
Public Health (Rate of Interest) Order, 1952. (S.I. 1952 No. 771.)
Raglan–Abergavenny–Brecon–Llandovery Trunk Road (Lion Street, Abergavenny) Order, 1952. (S.I. 1952 No. 769.)
Safeguarding of Industries (Exemption) (No. 3) Order, 1952. (S.I. 1952 No. 766.)
Stopping up of Highways (Berkshire) (No. 1) Order, 1952. (S.I. 1952 No. 767.)
Stopping up of Highways (Derbyshire) (No. 1) Order, 1952. (S.I. 1952 No. 792.)
Stopping up of Highways (Middlesbrough) (No. 1) Order, 1952. (S.I. 1952 No. 768.)
Draft **Teachers' Superannuation** (British Families Education Service) Scheme, 1952. 5d.
Draft Teachers' Superannuation (Guernsey and Alderney) Scheme, 1952.
Trafalgar Square Regulations, 1952. (S.I. 1952 No. 776.)
Usk River Board Area Order, 1952. (S.I. 1952 No. 789.)
Water (Interest on Deposits) (Revocation) Regulations, 1952. (S.I. 1952 No. 773.)
Wye River Board Area Order, 1952. (S.I. 1952 No. 788.)

[Any of the above may be obtained from the Government Sales Department, The Solicitors' Law Stationery Society, Ltd., 102–103 Fetter Lane, E.C.4. The price in each case, unless otherwise stated, is 4d., post free.]

POINTS IN PRACTICE

Questions from solicitors who are REGISTERED ANNUAL SUBSCRIBERS are answered without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 102-103 Fetter Lane, E.C.4, and contain the name and address of the subscriber, and a stamped addressed envelope.

Rent Acts—Increase of Standard Rent—Cost of Electricity included

Q. Eighteen years ago A let the top part of his house unfurnished to B, at a rental of 10s. per week including electricity. A no longer lives in the house. He has never increased the rent. He now wishes to increase the rent in respect of (*a*) increase of rates during the last eighteen years, (*b*) increase of electricity charges. It is clear that A can increase the rent in respect of rates, but can he also increase the rent in respect of the increase of the electricity charges? If so, it is presumed that A would have to apportion the original rent of 10s. to show how much was in respect of the standard rent and how much was for the electricity. It appears that B, whilst willing to pay the increase in respect of the rates, is not prepared to agree that he can be charged any increase in respect of the electricity.

A. "Rent" is not defined in the Rent Restrictions Acts, but in *Hornsby* v. *Maynard* [1925] 1 K.B. 514 it was said that the word "rent" in the expression "standard rent" and elsewhere in the Acts meant the entire sum payable to the landlord in money as rent for the dwelling-house in question. Thus in *L. H. Woods & Co., Ltd.* v. *City and West End Properties, Ltd.* (1921), 38 T.L.R. 98, it was held that a sum of 2s. per week described by the parties as "additional rent" but payable in respect of housekeeping services must be regarded as part of the standard rent. See also *Property Holding Co., Ltd.* v. *Clark* [1948] 1 K.B. 630 and *Alliance Property Co., Ltd.* v. *Shaffer* [1949] 1 K.B. 367. We are accordingly of the opinion that as no apportionment was made at the inception of the tenancy in respect of the electricity, but the amount of the charge therefor was included as part of the "rent," no increase is now permissible in respect of the increased cost of this item and that the only increase which can now be made is in respect of general and water rates.

Joint Tenants—Express Trust for Sale—Sale by Personal Representative of Last Surviving Trustee

Q. By a conveyance made in September, 1926, freehold land was conveyed to A, B and C in fee simple as joint tenants, but the conveyance contains a declaration that A, B and C shall stand possessed of the premises upon trust for sale with power of postponement, and shall stand possessed of the net proceeds of sale and of the net rents and profits until sale in trust as to one equal half part for A in his individual capacity and in trust as to the other equal half part thereof for A, B and C as joint tenants. A died in 1930, B died in 1940 and C died in 1943. C left a will (duly proved) appointing B (who predeceased C) and D executors thereof. Can D, as surviving personal representative of C, make a good title to the land as sole surviving personal representative of C on the footing that the habendum in the conveyance of 1926 was to A, B and C as joint tenants, or does the subsequent declaration affect the matter and must the personal representatives of A and B join in a conveyance of the land, or must D appoint new trustees of the trust for sale?

A. As the conveyance of September, 1926, contains an express trust for sale and also declares the trusts of the proceeds of sale in proportions which are inconsistent with beneficial joint tenancy of the grantees it is clear that they cannot be treated as such. The trust for sale will accordingly continue until the land has been conveyed to or by the direction of the persons now entitled to the proceeds of sale (Law of Property Act, 1925, s. 23). Unless, therefore, it can be shown by deducing the title to the equitable interests in the proceeds of sale that D is solely and beneficially entitled, the proper course is for D to appoint an additional trustee to act with him in the execution of the trust for sale. It seems that D would not be competent to give a good receipt for the purchase money for the reason that, although he is a sole personal representative in exercising the powers of the last surviving trustee, he is not acting "as such" personal representative (Law of Property Act, 1925, s. 27 (2)) but as a trustee.

Hire-Purchase Agreement—Death of Hirer—Widow's Default in Payments

Q. Please state whether there are any and, if so, what remedies open to the owners of goods under a hire-purchase agreement in the following circumstances: (*a*) the hirer died after having paid instalments totalling £4 12s. 8d., the hire-purchase price being £13 18s.; (*b*) the hirer's widow asked the owners if she might take over the hire-purchase agreement; (*c*) the owners agreed to this but no formal assignment was executed; (*d*) the hirer's widow paid instalments amounting to £3 5s.; (*e*) the hirer's widow refuses to pay any further instalments. Against whom should the owners take proceedings? If they take proceedings for repossession of the goods, can the notices terminating the agreement and demanding repossession be served on the widow? The hire-purchase agreement contains no provisions relating to the death of the hirer.

If the owners are precluded from taking proceedings under the Hire Purchase Act, 1938, by reason of the fact that the agreement is not signed by the widow, or for any other reason, have the owners any other remedy against the widow, e.g., conversion, detinue or otherwise?

A. We consider that this is not a case of "assignment" at all, but of devolution of rights and liabilities on death. The ordinary rules apply, and it will depend on whether the hirer died testate or intestate, and whether letters or probate have been taken out. Obviously, if the rights under the agreement vested in someone other than the widow (e.g., the President of the Probate Division under s. 9 of the Administration of Estates Act, 1925) the owners had no power to assign the rights to the widow. Who is liable on proceedings for recovery of the goods will depend on whom rights and liabilities vested in on death, or the subsequent issue of letters or probate—if any have been issued. We do not think any remedy in conversion or detinue lies against the widow, even if she is not entitled under the rules as to devolution on death, because she appears to possess with the permission of the owner. Her subsequent default does not, in our view, make her possession tortious.

Unregistered Friendly Society—Validity of Nomination of Deceased Member

Q. I act for an unregistered slate club who have experienced trouble over payment of death benefit to a nominee under their rule, which is as follows: "Rule 21. From Jan. 1st to Dec. 31st on the death of any member clear on the books the sum of £10 shall be paid to the next of kin or person nominated by the deceased upon production of a death certificate." Nomination is made on the form of application for membership. Lawyers acting for the executors of a deceased member insist on the club paying to them the benefit as part of the estate, although the

benefit is not mentioned in the will but merely a disposal of the residue of the estate by the will to another person. The mere fact that the member left a will and disposed of the residue does not prevent the committee of the club from paying a nominee under their club rules in my opinion. A reference to the point is made in Halsbury's Laws of England, 2nd ed., vol. 15, p. 303, but does not seem to make the position clear. I shall be obliged for your opinion on the matter, and on whether the rules could provide that no nomination should be revocable by will or codicil to avoid trouble in the future.

A. The power to execute a statutory nomination is confined to members of registered friendly societies (Friendly Societies Act, 1896, s. 57; Industrial and Provident Societies (Amendment) Act, 1913; Fuller on Friendly Societies, 4th ed., pp. 126, 400). Accordingly, any rights as between a member and an unregistered society must lie in contract. In *Ashby* v. *Costin* (1888), 21 Q.B.D. 401, the rule of the (unregistered) society under consideration provided for payment to the person to whom the benefit had been bequeathed or, if not bequeathed, to such of the next of kin as the society should decide, and it was held that such persons were not obliged to account to the administrator. We do not know of any decision which assists in the interpretation of the rule in the present case, but our opinion is that an unregistered friendly society cannot, by its rules, prevent the revocation of a member's nomination by a subsequent will made by him, since the power to make an irrevocable nomination is confined by statute to members of registered societies. For the same reason we conclude that the nomination in the present case was revoked by the member's will, and although the trustees would, in the absence of a will, get a valid discharge by payment pursuant to rule 21, we think that the paramount title is now with the executors. Although a person can, by contract, agree not to revoke a will and therefore, it would seem, not to make a will at all, such an agreement is not specifically enforceable (Williams on Executors, 12th ed., vol. I, p. 81) and would not abrogate the title of executors acting under a will made in breach of the agreement.

NOTES AND NEWS

Honours and Appointments

LORD RADCLIFFE has been appointed Chairman of the Royal Commission on Taxation of Profits and Income.

The Lord Chancellor has made the following appointments under Pt. II of the Courts-Martial (Appeals) Act, 1951: (*a*) Sir FREDERICK GENTLE, Q.C., to be Vice Judge Advocate General; (*b*) Mr. O. C. BARNETT, O.B.E., LORD RUSSELL OF LIVERPOOL, C.B.E., M.C., Mr. J. E. M. GUNNING, O.B.E., Mr. C. M. CAHN, Mr. B. A. C. DUNCAN, M.B.E., Mr. B. de H. PEREIRA, Mr. B. K. FEATHERSTONE, Mr. F. H. DEAN and Mr. O. BERTRAM, T.D., to be Assistant Judge Advocates General; and (*c*) Mr. W. ST. J. C. TAYLEUR, the Hon. A. J. P. F. ACLAND-HOOD, Mr. E. H. V. HARINGTON, Mr. R. H. BROWNE, Mr. C. E. DEPINNA, Mr. A. E. MCDONALD, Mr. W. E. STUBBS, M.B.E., Mr. J. G. MORGAN-OWEN and Mr. A. G. PARRY JONES to be Deputy Judge Advocates.

The Lord Chancellor has appointed Mr. H. A. PALMER to be Registrar of the Courts-Martial Appeal Court.

The Archbishop of Canterbury has appointed Mr. D. M. M. CAREY, M.A., to be Actuary of the Lower House of the Convocation of Canterbury.

Mr. MALCOLM MOSS, deputy Coroner for North Leicestershire, has been appointed Coroner, and Mr. E. T. S. BYASS has been appointed deputy Coroner.

Personal Notes

Mr. C. P. Brutton, Clerk to the Dorset County Council, was married recently to Miss Barbara Mary Hood.

Dr. F. A. Padmore, president of the Manchester Law Society in 1916 and 1938, the Society's centenary year, has resigned from the council of the Society after nearly fifty years' service. A resolution of thanks and appreciation was passed at the last meeting of the council.

At a dinner in his honour on 25th April, Mr. J. W. Walker, who joined the staff of Messrs. A. V. Hammond & Co., solicitors, of Bradford, fifty years ago, was presented with a silver salver on behalf of the partners of the firm.

Miscellaneous

CARLISLE DEVELOPMENT PLAN

On 7th April, 1952, the Minister of Housing and Local Government approved, with modifications, the above development plan. A certified copy of the plan as approved by the Minister may be inspected from 9 a.m. to 5.30 p.m. (Saturdays 9 a.m. to 12 noon) at the Town Clerk's Office, 15 Fisher Street, Carlisle. The plan became operative as from 25th April, 1952, but if any person aggrieved by the plan desires to question the validity thereof or of any provision contained therein on the ground that it is not within the powers of the Town and Country Planning Act, 1947, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the approval of the plan, he may, within six weeks from 25th April, 1952, make application to the High Court.

At The Law Society's Final Examination held on 10th, 11th and 12th March 169 candidates passed out of 348. The Council have awarded the following prizes: to A. J. Gardner the Sheffield Prize, value £38, and to E. P. Mawson the John Mackrell Prize, value £15.

At the Trust Accounts and Book-keeping Examination held on 14th March, 327 candidates passed out of 380.

THE SOLICITORS' LAW STATIONERY SOCIETY, LIMITED

The report of the directors of The Solicitors' Law Stationery Society, Limited, for the year 1951 states that the sales again showed a substantial increase over the previous year. The profit for the year was also higher and amounted to £159,834. The directors recommend that a dividend of 19 per cent. per annum, less income tax, be paid in respect of the year. A bonus will be payable to the staff under the profit-sharing scheme. They also recommend the provision of £64,421 against estimated liability for income tax and profits tax, the addition of £10,000 to the rebuilding reserve, £7,500 to general reserve, £12,500 to the taxation equalisation reserve and £2,000 to the provision for women's pensions, and the carrying forward of the sum of £39,501 against £26,050 brought forward from the previous year.

The annual meeting will be held at Oyez House, Norwich Street, Fetter Lane, E.C.4 (fifth floor), on Tuesday, 20th May, at 12.30 o'clock.

A report of the proceedings will appear in our issue of the 24th May.

Wills and Bequests

Mr. William Frost, solicitor, of Purley, left £61,406 (£60,916 net).

Mr. Maurice Gaunt, solicitor, of Bradford, left £43,980 (£43,661 net). His bequests included £50 to Reginald Pearson, if in his employ at the date of his death, and £200 to be divided at the discretion of the partners of his firm among the office staff.

Col. C. F. Morgan, solicitor, of Manchester, left £18,876.

SOCIETIES

The SOLICITORS' ARTICLED CLERKS' SOCIETY announce a skating party at Queen's Club, Bayswater, at 6.30 p.m., on 8th May.

"THE SOLICITORS' JOURNAL"

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